



Mediating Desire

YŪSUF AL-QARAḌĀWĪ AND THE CIRCULATION OF NORMS
ON GENDER & SEXUALITY IN THE TRANSNATIONAL MUSLIM PUBLIC

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Prologue

1. Introduction

{اهْدِنَا الصِّرَاطَ الْمُسْتَقِيمَ}

{Guide us in the straight path}

AL-FĀTIHA, Q 1: 6

It is Sunday evening, 5 November 2006, 10.15 p.m. local time in Mecca. A camera captures the panorama of a city from the edge of a bridge under which a broad river flows. The silhouettes of red house roofs and a pointed church tower stand out on the horizon of the opposite bank. Then the images depicts a long drawn arch, until the church tower finally moves into focus. A male voice starts off-screen.

في مدينة بيرث الاسكتلندية هذه ذات المناظر الساحرة حظ الرحال بالدكتور عماد السعداوي وأسرته
قبل أكثر من عشر سنوات ليعيشوا في بيئة ليست ببيئتهم الإسلامية

In this Scottish town, Perth, endowed with enchanting views, Dr 'Imād al-Sa'dāwī and his family settled down more than ten years ago to live in an environment that is not their Islamic environment.

For a moment, the church gable appears in the image close-up. This is followed by a jump cut to the profile of a man sitting at the wheel of a car. Whitewashed facades of houses pass behind green bushes along the edge of the road. The next shot is the river again, this time in close-up. Waves and whirlpools curl its surface.

كانت البداية صعبة فالمخاوف انتابتهم من كل جهة والقلق ساورهم بشأن تنشئة أبنائهم والتوفيق بين
التمسك بثقافتهم والتعايش مع المجتمع الغربي

The beginning was hard. Fears afflicted them from every side, and concerns assaulted them about the education of their children and the compromise between adherence to their culture and coexistence with Western society.

Dr al-Sa'dāwī gets out of his car. A boy hurries towards him and stretches out his hand. The doctor gently pulls him to him, bends down and kisses him on the cheek: a picture of family intimacy.

ولكن ما لبثت أن وجدت أسرة الدكتور عماد ضالتها في برنامج الشريعة والحياة الذي أنار الطريق أمامها.

However, it was not long before the family of Dr ‘Imād al-Sa‘dāwī found the object of their long-cherished desire (ḍālla) in the programme al-Sharī‘a wa-l-ḥayāt, which illuminated the way (ṭarīq) before them.

Global flows of persons, objects, images and ideas have unsettled and reconfigured many of the intimate ties that bound society to territory, culture to place and religion to region in a now distant – and presumably more sedentary – past.¹ At the same time, new scapes of ideology, technology, finance and media have emerged, and have established novel territories, collective identities and individual desires that cut across the imaginary boundaries of postcolonial nation-states.² The visible appearance of Muslim actors in these transnational territories has not only disturbed prior sensibilities and understandings of Islam and Muslim identity, as some scholars have pointedly remarked.³ It has also brought into question many supposedly unquestionable ideas, profound convictions and teleological narratives of secularism, modernity and the liberal public in so-called “Western” societies.⁴ The female body, gendered identities, sexuality, marriage and the

¹ Academic research on the different dimensions of globalization has multiplied since the 1990s (Steger et al. 2014). A central analytical contribution, on which my introductory statement draws, has been made by Arjun Appadurai (1996) and his notion of scapes as cultural and deterritorialized spaces that enable the global exchange of persons, objects and ideas. For a lucid overview on the genealogy of globalization and the career of the concept, see the essay by James and Steger (2014) published in the journal *Globalizations*, as well as their subsequent interviews with some major contributors to the debate, including Appadurai (2014), Roland Robertson (2014), David Held (2014), Saskia Sassen (2014), Joseph E. Stiglitz (2014) and Jonathan Friedman (2014). For an early and much referenced study on the effects of globalization on Islam, see Roy 2002.

² Appadurai 1996.

³ See e.g. Göle 2002; Roy 2002.

⁴ The inverted commas indicate the problematization of the “West” as an ontological category that is naturally set apart from its *Other*, the “Orient” (Said 1978). For two analytical approaches that seek to de-essentialize and overcome these categories, see Shalini Randeria’s notion of “entangled history” (1999; Conrad/Randeria 2002) and Werner and Zimmermann’s reflections on *histoire croisée* (2002; 2004; 2006).

family have evolved in this process into major sites at which different projects for claiming and inhabiting these unsettled territories meet.⁵

The Islamic scholar and activist Yūsuf al-Qaraḍāwī (b. 1926) has become one of the most visible religious authorities in this transnational public during the past two decades.⁶ Al-Qaraḍāwī's visibility is closely related to his long-term affiliation to numerous influential institutions like the Muslim Brotherhood (*al-ikhwān al-muslimūn*), the International Union of Muslim Scholars (*al-ittiḥād al-‘ālamī li-‘ulamā’ al-muslimīn*) and the European Council for Fatwa and Research (*al-majlis al-ūrūbī li-l-iftā’ wa-l-buḥūth*).⁷ But it is above all his numerous books translated into various languages, his early embracing of the Internet and not least his regular appearances on the transnational satellite television channel Al Jazeera Arabic that have established him as a global authority whose teachings and legal opinions (*fatāwā*, sg. *fatwā*) among millions of viewers and readers worldwide.⁸

Al-Qaraḍāwī's ongoing visibility in this transnational public sphere contradicts many predictions about the emergence of new media technologies and the fate of Muslim authority that Western academic scholarship has proposed over the past two decades. This scholarship has assumed two opposite and indeed, as the anthropologist Charles Hirschkind has pointedly remarked, contradictory beliefs in regard to the question of the impact of new media technologies on religious authority: one deliberative and one disciplinary.⁹ The first assumption is associated with the work of anthropologists such as

⁵ Seminal studies of colonial, (secular) nationalist or religious fundamentalist engagements with gender include Sangari et al. 1989; Kandiyoti 1991; Yuval-Davis 1997; Göle 1997; Abu-Lughod 1998.

⁶ For an overview of al-Qaraḍāwī's biography, see chapter 3 of this prologue, as well as Kursawe 2003; Wenzel-Teuber 2005: 35–47; Krämer 2006; Soage 2008; Gräf/Skovgaard-Petersen 2009; Gräf 2010: 102–122; 2013b.

⁷ For an overview of these institutions and al-Qaraḍāwī's affiliation to them, see Tammam 2009: 67–68.

⁸ The central role of the media in al-Qaraḍāwī's popularity was highlighted to me by several interlocutors during my field research in Egypt and in Qatar between September 2010 and February 2014. A comprehensive list (*qā’ima shāmila*) of al-Qaraḍāwī's book publications in Arabic is maintained on his personal website (al-Qaraḍāwī 2014f). For a historical contextualization of his writings, see Wenzel-Teuber 2005: 39–47; Gräf/Skovgaard-Petersen 2009: 4–6; Tammam 2009: 65–67; Gräf 2010: 123–134. For al-Qaraḍāwī's engagement with the media, see Skovgaard-Petersen 2004; Gräf 2007; 2008; 2010; Galal 2009. On al-Qaraḍāwī's minority *fiqh* (*fiqh al-aqalliyyāt*) and his importance to Muslims in Europe see e.g. Caeiro 2004; Caeiro/al-Saify 2009; Albrecht 2010; Shavit 2012; Hassan 2013.

⁹ Hirschkind 2001: 3. For a fundamental problematization of the (Protestant) conception of a primordial immediacy of religion that enables us to measure and evaluate the impact of (new) media on the phenomenon in one or the other way, see Meyer 2011.

Walter Ong (1982) and Jack Goody (1987), the modernization theorist Daniel Lerner (1958) or the philosopher Jürgen Habermas (1989).¹⁰ Drawing on “the conventional histories of the Protestant revolution”, this scholarship emphasizes new prospects of contestation, argument and dialogue that have been provided by the arrival of modern literacy, print and mass media.¹¹ The new “object-like quality” of religious knowledge is presumed to propel a “fragmentation”¹² and “democratization”¹³ of religious authority in an emerging Muslim public, in which an increasing number of individuals engage with and revise their religious traditions.¹⁴

The second assumption, as Hirschkind argues, is to be found in the works of Aziz Al Azmeh (1993), Bruno Etienne (1983), Gilles Kepel (1986), Annabelle Sreberny and Ali Mohammadi (1994), Olivier Roy (1992) and Emmanuel Sivan (1990).¹⁵ These scholars stress the ideological or disciplinary aspects of Islamic media, enabling “an extension of authoritative religious discourse”.¹⁶ Media change thus results less in a public sphere of discussion and debate than in one of “subjection to authority as part of a project aimed at promoting and securing a uniform model of moral behaviour”.¹⁷

What both perspectives have in common, Hirschkind concludes in his observations, is that they identify the public arena constituted by media practices of religious actors “*either* as a deliberative space of argument and contestation between individuals or as a normative space for education in community-oriented virtue. The assumption is that the more truly deliberate the public is, the weaker its disciplinary function, and vice versa.”¹⁸

Hirschkind subsequently adds a third perspective that dialectically transcends the former two assumptions.¹⁹ Based on his field research in Cairo, he highlights the pivotal role of cassette sermons in an expanding arena of Islamic argumentation and debate – or

¹⁰ Lerner 1958; Ong 1982; Goody 1986; Habermas 1989; Hirschkind 2001: 3.

¹¹ Hirschkind 2001: 3.

¹² Eickelman/Anderson 2003.

¹³ Eickelman 2000.

¹⁴ Hirschkind 2001: 3.

¹⁵ Azmeh 1993; Etienne 1983; Hirschkind 2001: 3, 28, n. 2; Kepel 1985; Roy 1992; Sivan 1990; Sreberny/Mohammadi 1994.

¹⁶ Hirschkind 2001: 3, 28, n. 2.

¹⁷ Hirschkind 2001: 3.

¹⁸ Hirschkind 2001: 3.

¹⁹ Hirschkind 2001: 4–6.

what he calls, taking up a notion by Michael Warner, an “Islamic counterpublic”.²⁰ Although this counterpublic clearly rests on some of the fundamental assumptions of modern publicity, its “conceptual architecture” cuts across liberal distinctions between state and society, public and private, authoritative discipline and rational deliberation.²¹ Sermon tapes provide the material bedrock of this counterpublic that “has been mapped on the national civic arena by Muslim reformists over the course of the last century”.²² Their circulation and consumption as “a form of pious entertainment” discipline and hone the bodily sensibilities, moral virtues and rational arguments on which this arena crucially depends.²³

My research represents at the same time an extension of and a restriction of Hirschkind’s argument. Following the suggestion by Alexandre Caeiro to draw “a denser landscape of contemporary forms of Islamic piety”, my study focuses on an arena that overlaps and transcends the ethical soundscape of Cairo’s “popular neighbourhoods”.²⁴ At its centre we find the normative reflections on gender and sexuality in the writings and media appearances of al-Qaraḍāwī.

This topical focus is not incidental. Rather, it reflects the highly prominent place that contestations over the nature of gendered relations, sexuality and the family have taken in negotiating the place of Islam in recent times.²⁵ As Judith Tucker has shown in her seminal work on *Women, Family, and Gender in Islamic Law*, gender relations have held a prominent position in Muslim normative thought for a long time now.²⁶ As Talal Asad has pointed out, however, the colonial reconfiguration of the shari‘a has rendered gender relations a central site both for the physical and moral (re)production of religion and for the religious subject.²⁷ Since the 1970s, in the context of the crisis of the postcolonial nation–state and of Third World socialism, and as a result of the politics of (partial)

²⁰ Hirschkind 2001: 4; Warner 2002.

²¹ Hirschkind 2001: 4. This argument has been adopted and further developed by Saba Mahmood (2011) in her work on the women’s mosque movement in Cairo. I will comment on Mahmood’s contribution, particularly in regard to the notion of the subject, below on pp. 15–17.

²² Hirschkind 2006: 107.

²³ Hirschkind 2006: 121.

²⁴ Caeiro 2010: 447, n. 26; Hirschkind 2006: 8.

²⁵ McLarney 2015: 23.

²⁶ Tucker 1998.

²⁷ Asad 2003; McLarney 2015: 17.

liberalization, gender has been strategically reinvested by a transnational movement in which al-Qaraḍāwī has assumed the role of a leading thinker and theorist: the Islamic revival.²⁸

Ellen McLarney has convincingly argued that intellectuals and activists of the Islamic revival such as Muḥammad Jalāl al-Kishk (d. 1993), Bint al-Shāṭi' (d. 1998), Ni'mat Siḍqī, Īmān Muḥammad Muṣṭafā and Hiba Ra'ūf 'Izzat have defined gender relations as "Islamic territory" by playing on and subverting the secularist state's "core assumption about the separation of church and state and of the private and public".²⁹ Although these thinkers contest the secular divide between "private and public, personal faith and politics", it is ironically the private realm *within* the logic of secularism that provides them a shelter from the encroachments of the secular authoritarian state and "a safe haven for opposition discourse".³⁰ The private sphere of family and gender relations, of female bodies and the sexual division of labour, as McLarney concludes in her insightful remarks, turns into a sacrosanct and "extrapolitical" space in which religion and Islamic politics have become "inordinately invested."³¹

Al-Qaraḍāwī, as I will argue, provides us with a particular insight into the remaking of sexuality and gender relations in the revivalist movement. His contributions to the

²⁸ McLarney 2010; McLarney 2015. The Islamic revival, as Mahmood puts it, refers to a religious ethos and sensibility that has a palpable presence in the public sphere. This presence "manifest[s] in the vast proliferation of neighbourhood mosques and other institutions of Islamic learning and social welfare [...], a brisk consumption and production of religious media and literature, and a growing circle of intellectuals who write and comment upon contemporary affairs in the popular press from a self-described Islamic point of view" (Mahmood 2011: 3). Al-Qaraḍāwī has published eighteen titles on the Islamic revival or – in a rendering closer to the Arabic term – the Islamic awakening (*al-ṣaḥwa al-islāmiyya*). On al-Qaraḍāwī's role as an intellectual in the Islamic revival, see Salvatore 1997; Baker 2003; Polka 2003.

²⁹ McLarney 2015: 18.

³⁰ McLarney 2015: 19–20.

³¹ McLarney 2015: 19–20. Moderate Islamists' politicization of this extrapolitical space, as I hope to outline, is highly contested. On the one hand, they have to develop and defend this space against other Islamist projects, that either seek to (re)shift the focus to the arena of politics proper (e.g. Sayyid Quṭb and jihadi Salafism), or to enforce their own normative claim on gender relations in a highly competitive public sphere and market of ideas that has emerged with Sadat's policy of economic liberalization since the 1970s (Rock-Singer 2016b). This confrontational context is crucial to situate and understand al-Qaraḍāwī's engagement both with gender and with the traditional disciplines of Muslim normative thinking at large (see part III).

revival's biopolitical project³² are located at a particular juncture at which Islamic knowledge (*ilm*), activism and modern media meet. The topic of gender has a long genealogy in his writings. In his earliest text in the 1960s, *al-Ḥalāl wa-l-ḥarām fī al-islām*, he had already developed some fundamental elements of his thought, which he subsequently revisited and refined in his later publications.³³ In the late 1970s, he published *Nisā' mu'mināt* on the exemplary life of Muslim women in early Islamic history.³⁴ In 1988, he released a fatwa collection *on or for the Muslim woman*.³⁵

The 1990s witnessed a significant increase in the number of publications dedicated to gender-related issues. Many of these publications were explicitly framed as a response to the perceived challenges posed by transnational feminism and global gender mainstreaming. In 1996, al-Qaraḍāwī published a booklet about the debate on the Islamic veil.³⁶ In the same year, he released a short publication on the status of women in Islamic life.³⁷ In 1999, he published *Zawāj al-misyār*.³⁸ In 2004 *Muslimat al-ghad* appeared,³⁹ followed in 2007 by *Diyat al-mar'a fī al-sharī'a al-islāmiyya* and *al-Ḥukm al-sharī fī khitān al-ināth*.⁴⁰ In 2008, he published *al-Usra kamā yurīduhā al-islām*.⁴¹ And in 2011 his latest publication on the

³² The notion of “biopolitics” (or “bio-politics”) was introduced by Michel Foucault in his lectures at the Collège de France (published in 1996) and in *La volonté de savoir* (1976) in the mid-1970s. According to Foucault, it designates a specific form of power that emerged in Europe in the seventeenth century whose strategic target and starting point is sexuality. On the one hand, sexuality opens access for this power to the individual body, providing it a key to analyse “the smallest details of individual existences”, and bearing in the process the very “stamp of individuality” (Foucault 1978: 146). On the other hand, biopolitics renders sexuality a central site of population policy, making it “the theme of political operations, economic interventions (through incitements to or curbs on procreation), and ideological campaigns for raising standards of morality and responsibility” (Foucault 1978: 146). Drawing on Foucault, Ellen McLarney provides an intriguing definition of “Islamic biopolitics” as a “‘set of mechanisms through which the basic biological features of the human species became the object of a political strategy, a general strategy of power,’ one that contested the biopolitics of the secular state” (McLarney 2015: 5; Foucault 1978: 140).

³³ al-Qaraḍāwī 1994a: 139–216.

³⁴ al-Qaraḍāwī 1979.

³⁵ al-Qaraḍāwī 1988a.

³⁶ al-Qaraḍāwī 1996a.

³⁷ al-Qaraḍāwī: 1996b.

³⁸ al-Qaraḍāwī 1999a.

³⁹ al-Qaraḍāwī 2004a.

⁴⁰ al-Qaraḍāwī 2007d; 2007a.

⁴¹ al-Qaraḍāwī 2008a.

topic appeared, *Ḥayāt al-mar'a al-muslima fī iṭār al-ḥudūd al-shar'iyya*.⁴² Since the mid-1990s, al-Qaraḍāwī has disseminated his normative views on Islamic gender relations in numerous public appearances on satellite television and the Internet, in parallel with his publications. In *al-Sharī'a wa-l-ḥayāt*, his weekly talk show on Al Jazeera, he has addressed issues relating to love, marriage, divorce and family life, child care, women's liberation, and the equality and status of women in Islam, veiling, the visibility of women in private and public, their political rights, Islamic feminism, and Islamic gender relations among Muslim minorities in the West.⁴³

The present study investigates al-Qaraḍāwī's public engagement with Islamic norms on gender and sexuality and his contribution to the Islamic revival's biopolitical project from four analytical perspectives. The first perspective inquires into the particular place from which al-Qaraḍāwī speaks. Drawing on al-Qaraḍāwī's extensive memoirs and secondary literature, it tries to carve out the extent to which the key events and different stages of his life help us to situate and comprehend the lines and ruptures in his normative thinking since the 1960s.⁴⁴

The second perspective inspects the specific traditions of knowledge (*ilm*) on which al-Qaraḍāwī draws in his normative reflections, in which *fiqh* plays a highly prominent part. That is, how are the respective norms established? How are they justified? On which textual foundations do they rest? And through which hermeneutical rules and practices are they deduced from the authoritative texts?

The third perspective inquires into the particular materialities⁴⁵ and media related practices through which these norms circulate: the writing and reading of books, the asking of and replying to morally and epistemically sound questions and the production

⁴² al-Qaraḍāwī 2011a. In addition to the publications explicitly listed here, we find numerous references to gender-related issues in his publications on other topics; see, for example, al-Qaraḍāwī 1991a; 1993a; 1993b; 1997a; 2003a; 2009a; 2012a.

⁴³ al-Qaraḍāwī 1996e; 1997c; 1998a; 1998b; 1998c; 1998d; 1998e; 1999f; 1999h; 2000a; 2003b; 2004e; 2004f; 2005a; 2005b; 2005c; 2006c; 2007a; 2007c; 2007d; 2008a; 2008b; 2008c; 2008d; 2008e; 2008f; 2008h; al-Qaraḍāwī/al-Qarā Dāghī 1998.

⁴⁴ al-Qaraḍāwī 2002a; 2004b; 2006a; 2011b.

⁴⁵ The notion of materiality that I draw on is shaped by a larger discussion that has taken place in the past three decades in and across various disciplines, including anthropology, art history, philosophy, literature, gender and media studies and, more recently, Islamic studies. For further remarks and references, see the discussion below.

and consumption of classical and modern media (*i'lām*): the Islamic book, terrestrial and satellite TV and, more recently, the internet. My focus in this last case is both on al-Qaraḍāwī's specific adoption of these media, as well as the repercussions of the inherent logic (*Eigenlogik*) of these media on al-Qaraḍāwī's discourse on Islamic gender relations.

The fourth perspective is transversal to the previous two. It inquires into the specific subjectivities that this normative discourse seeks to engender, and the particular ways these subjectivities are positioned and inscribed into the material bodies of the text – that is, the pious reader of the Islamic book, the devout enquirer of the scholarly opinion (*fatwā*) and modern media's virtuous consumer.

At this point, a brief theoretical excursus is necessary. Analytical inquiries into gender, knowledge and the cultivation of pious subjects in the Islamic revival are not new, but have a prominent genealogy in Western academic thought. A central plank has been set by Saba Mahmood in her seminal study on the women's mosque movement in Cairo, for whose protagonists al-Qaraḍāwī is an important intellectual reference.⁴⁶ In her analysis, Mahmood critically adopts post-structuralism's challenge to Enlightenment thought and its liberalistic "illusion" of a "rationalist, self-authorizing, transcendental subject" that necessarily excludes all that is bodily, feminine, emotional and nonrational.⁴⁷ At the same time, however, she questions post-structuralist feminist notions of subjectivity and their underlying analytical framework of power, agency and resistance.⁴⁸ Her critical point of reference is the work of Judith Butler.

In her seminal study *Gender Trouble*, Butler deconstructs gender and sexuality as presumed natural and prediscursive categories of human male or female identity.⁴⁹ According to Butler, neither gender nor the sexed body represent a natural given. Rather, they are social and historical products of a binary gender matrix that continuously (re)inscribes and (re)maps its normative order onto the male and female body. "Sexed nature" and "natural sex", as she succinctly puts it, are not prediscursively fact, but rather the sedimentative effects of "the apparatus of cultural construction".⁵⁰

⁴⁶ Mahmood 2011: 66, 83.

⁴⁷ Mahmood 2011: 13.

⁴⁸ Mahmood 2011: 14.

⁴⁹ Butler 1999.

⁵⁰ Butler 1999: 10.

This heteronormative order, as Butler maintains, enfolds its power through its repetitive enactment.⁵¹ Since these repetitions never take place in exactly the same context, however, gender's primary mode of power – its iterative performance – simultaneously bears the possibility of resisting and subverting its norms of heterosexuality. It is here that Butler locates the possibilities of insubordination, autonomy and agency.⁵²

Mahmood finds fault with Butler's position of identifying resistance to norms as the primary site for the formation of agency and subjectivity.⁵³ Post-structuralist feminism, she admonishes, remains trapped inside liberalism's "binary model of subordination and subversion".⁵⁴ Drawing on Michel Foucault's notion of power as "a strategic relation of force", she highlights that power is not merely repressive, but also productive of new forms of desires, objects and subjectivities.⁵⁵ Subjects and their agency are not only formed through liberatory practices of subverting or resisting social norms, but in the variety of ways in which these norms are embodied, lived and inhabited.⁵⁶ It pertains to the paradox of individuals' subjectivation (*assujettissement*), she sums up this perspective, that "the conditions that secure a subject's subordination are also the means by which she becomes a self-conscious identity and agent".⁵⁷

Mahmood's thoughts on the subjects of norms and her critical indication of non-liberatory forms of power that engender different kinds of bodies, knowledge and desires are inspiring for my own analysis of the Islamic revival's subjects. Nevertheless, my approach departs from her analytical perspective in several regards. This departure concerns first – and most obviously – the object of study. Although al-Qaraḍāwī's writings constitute a major point of intellectual reference for the pedagogical circles of Cairo's pious

⁵¹ Butler 1997b.

⁵² Butler 2004.

⁵³ Mahmood 2011: 17–22; Butler 1993; 1997a; 1997b; 1999.

⁵⁴ Mahmood 2011: 14.

⁵⁵ Mahmood 2011: 17; Foucault 1978; 1980.

⁵⁶ Mahmood 2011: 23.

⁵⁷ Mahmood 2011: 17; Foucault 1980.

mosque movement,⁵⁸ his writings and public appearances address a transnational audience that includes yet clearly transcends the movement's pedagogical circles.

Besides this most obvious deviation, my second point of difference concerns Mahmood's notion of the subject and its agency. While I continue to think of the subject as a double effect of a power that is simultaneously subordinating and productive, I seek to "read" this effect not *immediately* in the female body – an examination that Mahmood has brilliantly carried out – but rather in the media and in the material body of texts. Admittedly, it might appear odd to think of the subject not from the angle of the body as the major site for its intellectual and moral formation, but from material objects and the media themselves. In the past few years, however, several authors in and across various disciplines including anthropology, art history, philosophy, literature, gender, media and – most recently – Islamic studies have questioned the anthropocentric bias of the humanities and social sciences and have sought to overcome the ontological rupture between subject and object by highlighting their mutual constitution and the agency of objects in the formation of the self.⁵⁹

This "material turn" has left an imprint of its own in Islamic studies. Drawing on the discipline's philological tradition and taking inspiration from works on the sociology and history of books that have been conducted in other literary and philological disciplines,⁶⁰ scholars on the Near and Middle East have recently taken an increased interest in the material and social life of texts.⁶¹ This re-excavated – or "future"⁶² – philology transcends the analytical framework of pure semiotics and hermeneutical analysis. It draws on the

⁵⁸ Mahmood 2011: 66, 83. A similar observation has been made by Barbara Stowasser, who is surprised by the "old shaykh's" popularity among the younger generation of Islamic feminists such as the prominent Egyptian activist and political scientist Hiba Ra'ūf 'Izzat (Stowasser 2001: 99).

⁵⁹ Prominent interlocutors in this "material turn" (that builds on the preceding "linguistic turn") are, among others, Daniel Miller (1987), Arjun Appadurai (1988) and Bruno Latour (1999). For an excellent overview on these recent turns in the humanities and social sciences, see Bachmann-Medick 2014. For an earlier discussion of the materiality of discourse in Foucault's work, see Sarasin 2003: 37–46.

⁶⁰ A lucid and comprehensive overview on this field has been submitted by Finkelstein and McCleery (2012).

⁶¹ Early contributions that pursue this analytical perspective have been made by Brinkley Messick (1986; 1989; 1993; 1997). Further studies that cover various aspects of book culture in different regions and historical epochs of the Islamicate world have been presented by Heinzelmann and Sievert (2010), Hirschler (2012; 2016), Klemm et al. (2013), Heinzelmann (2015) and Liebrecht (2016).

⁶² Pollock 2009.

idea that the physical materiality of texts and their paratextual architecture not only constitute the meaning of the texts themselves, but embody particular norms and protocols on how to read and how to consume them.⁶³ The text's material body and its liminal devices thus provide us with specific historical insights into social conventions and practices of reading, and into the social life of readers whom these texts address or, to use Althusser's term, "interpellate".⁶⁴

My third departure from Mahmood less informs my approach than it represents a consequence of my analysis that, I hope, emerges over the course of my argument.⁶⁵ Nevertheless, I would like to anticipate it here. By highlighting the *difference* between the Enlightenment notions of a disembodied rationality and the centrality of the body as a site of the formation and cultivation of a virtuous self, I think Mahmood partly misses the ironic dialectics and paradoxical conjunctures between the moral epistemology of the Islamic revival and the secular order it seeks to resist.⁶⁶ To put it in a nutshell: knowledge (*'ilm*), rationality (*'aqliyya*) and understanding (*fahm*) are crucial in al-Qaraḍāwī's normative thoughts on the formation and cultivation of a pious Muslim self. The revival's subject is not only a subject of embodied norms – it is also a subject of knowledge (*'ilm*).

Returning to the analytical perspectives of the present study, the fourfold focus – (a) the social and biographical conditions that shape al-Qaraḍāwī's writings and media appearances on Islamic norms on gender and sexuality, (b) the hermeneutic rules and epistemic procedures of their production, (c) the specific materiality of their circulation,

⁶³ The classical references here are the works by Roger Chartier (1971; 1985; 1987; 1992) and Gérard Genette (1987; 1992).

⁶⁴ Althusser 1968. In this perspective, the reader (or listener) represents – to use Foucault's provocative formulation – a function of the text that is inscribed into its liminal devices and its material body. As Roger Chartier and Eric D. Friedman have aptly put it, a reader "is always socially defined by the competency, conventions, expectations and practices of reading that he shares with others" (Chartier/Friedman 1997: 10). These normative conventions are inscribed and reproduced in the physical form of the text. Although the history of reading is equiprimordial with the history of writing, the reader still represents the "'missing link' of book history" (Finkelstein/McCleery 2012: 100, 102). Seminal studies in the field that build on, but depart from, post-structuralism's proclaimed "birth of the reader" after the "death of the author" (Barthes 1967) include works by Altick (1957), Ginzburg and Aymard (1980), Chartier (1971; 1985; 1987), Genette (1992), Rose (1992) and Darnton (1994). For an intriguing analysis on how public texts discursively create their audience, see Warner 2002.

⁶⁵ See particularly part I, chapter 2, "The Subject of Knowledge".

⁶⁶ This dialectic conjuncture has been presented by McLarney (2015), among others.

and (d) particular subjectivities they seek to construct – is pursued across the four parts of the dissertation.

Following this introduction, the second chapter of the prologue seeks to locate my own work in the (admittedly extensive) research-scape on al-Qaraḏāwī. This represents an obligatory tribute to the rites and conventions of my discipline, and to the important accomplishments of other researchers.⁶⁷ Surprisingly, no English-language monograph on al-Qaraḏāwī's life or work has appeared thus far.⁶⁸ However many articles have appeared which look at particular aspects of his life and his publications. While many of these studies provide crucial contributions to our understanding of al-Qaraḏāwī, his thought and his involvement with media, none has highlighted his particular adoption of media, and the strategic significance of this in a biopolitical project with transnational dimensions.⁶⁹ Here, I hope to draw on notions of power, subjectivity and gender developed by Foucault, Butler and Mahmood to provide a new analytical focus on already-researched material, as well as to cover more recently published sources.⁷⁰

The third chapter of the prologue investigates the specific location that al-Qaraḏāwī speaks from, which appears – to a certain degree – representative of the broader condition

⁶⁷ Unfortunately, critical self-reflections on these rites and conventions that aspirants and candidates in the German tradition of Oriental studies are confronted with have thus far taken place only in a scattered manner. Tellingly, the major impulses in this direction have come not from within the discipline, but from other fields. Among these conventions there is the focus on the single author “as the unifying principle in a particular group of writings or statements, lying at the origins of their significance, as the seat of their coherence” (Foucault 1972: 221). While I have only little firsthand experience in doing research on discourses of the premodern period – a focus that has dominated German Oriental studies until recently – I deem it highly problematic to transfer the analytical instruments and perspectives of that field unreflectingly to the study of (post)modernity, as tempting as this transfer might appear. My critique does not intend to dismiss the monographic form, philology or other tried and tested instruments of the discipline as such, but to tune them to the rhythms and forms of other traditions and disciplines that claim to produce knowledge on the modern Middle East, and to enrich them with the insights provided by the linguistic and other turns that have taken place over the last four decades or more, thereby bringing philology – from the opposite perspective – “back in”.

⁶⁸ In the 2000s, however, two monographs were released in German: Wenzel-Teuber 2005 and Gräf 2010.

⁶⁹ Only a few authors have examined al-Qaraḏāwī's engagement with gender relations thus far: Roald 2001a; 2001b; Stowasser 2001; 2008; Kugle/Hunt 2012.

⁷⁰ Bettina Dennerlein informed me a few weeks before I submitted this thesis that she plans to publish two articles and a book chapter on al-Qaraḏāwī's gender-related publications.

of many proponents and activists of the Islamic revival during the last five decades.⁷¹ I describe this condition as a condition of exile, that is, the biographical experience of political persecution, physical expulsion and ongoing trial (*miḥna*) by the secular authoritarian nation-state.⁷² This condition, I argue, shapes al-Qaraḍāwī's engagement with Islamic gender norms in a particular and specific manner that manifests on three interrelated levels: first, in his identification of gender as a strategic site for the moral and biological (re)production of Islam, the Muslim subject and – through marriage and the family – of an Islamic society at large; second, in his deliberate adoption of the media as the primary means and technology to circulate these norms as part of a biopolitical project that seeks to subvert and transcend the secular order of the authoritarian nation-state; and third, in the particular way he engages with and reconfigures the tradition of Muslim normative thought (*fiqh*). This reconfiguration, which includes both the theory (*al-uṣūl*) and the practice (*al-furūʿ*) of *fiqh*, is deeply rooted in the specific political setting of “post-Islamism”,⁷³ and its accompanying strategy of – to use Asef Bayat's provocative term – a “cheap Islamization”.⁷⁴

⁷¹ In that third chapter, I draw on al-Qaraḍāwī's four-volume autobiography *Ibn al-qarya wa-l-kuttāb* (2002a; 2004b; 2006a; 2011b), which will be critically discussed there, as well as on the relevant secondary literature.

⁷² In his frequently referenced study *Democracy without Democrats?*, Ghassan Salame reminds us of the systematic place of exclusion in the nation-building of postcolonial states in the Middle East (1994: 14). On the Muslim Brotherhood's experience of persecution and exile, see e.g. Zollner 2009: 36–63; Wickham 2015: 20–45. As David Warren prudently reminds us, however, we should not reduce the framework of al-Qaraḍāwī's thought and works to the Egyptian context (Warren 2014). I hope to tackle the Qatari-Saudi context, al-Qaraḍāwī's engagement with Wahhabism, and its particular effect on his engagement with and reconfiguration of *fiqh* in a future paper.

⁷³ Although it might be justifiably to doubt the global validity of the concept of post-Islamism and its accuracy for describing the various trajectories in the region, I share Göle's more nuanced observation that since the 1980s a process of “normalization” has taken place: “In the ‘second wave’ of Islamism, actors of Islam blend into modern urban spaces, use global communication networks, engage in public debates, follow consumption patterns, learn market rules, enter into secular time, get acquainted with values of individuation, professionalism, and consumerism, and reflect upon their new practices. Hence we observe a transformation of these movements from a radical political stance to a more social and cultural orientation, accompanied by a loss of mass mobilization capacity” (Göle 2002: 174). This observation is particularly apt in regard to al-Qaraḍāwī and other proponents of centrism (*wasatīyya*) among the Muslim Brotherhood, like Muḥammad ʿImāra (b. 1931), Fahmī Huwaydī (b. 1936), Muḥammad Salīm al-ʿAwwā (b. 1942) and Muḥammad al-Ghazālī (d. 1996), who have overtly denounced political violence as a legitimate means for pursuing their objectives. See al-Qaraḍāwī 1970a; 1982; 1990a; 1991a; 1999a; 2002a, among other works.

Turning to part I, chapter I.1 provides an outline of al-Qaraḍāwī's reflections on gender on ontological and theological grounds. Drawing on *al-Ḥalāl* – al-Qaraḍāwī's first and arguably most prominent publication – I argue that he formulates a distinct notion of the human subject (*insān*) on whom he inscribes a natural and profound inner truth (*ḥaqīqa*): its consuming desire for the other sex.⁷⁵ The individual's sexual desire is represented as an prominent component of the revival's biopolitical project that strives to engender – through the proper use of one's sexual desire – a particular kind of pious subjectivity and to create, through marriage and the family (*usra*), an Islamic society at large.

Chapter I.2 locates this biopolitical project in the disciplinary traditions of Muslim scholarship, most notably *fiqh*. In his programmatic text *Taysīr al-fiqh li-l-muslim al-mu'āṣir*, which marks the beginning of al-Qaraḍāwī's more extensive engagement with the principles of Islamic normativity (*uṣūl al-fiqh*), he reveals a rather conventional understanding of the discipline, its epistemic boundaries and its relation to other traditions of Muslim scholarly thought, notably theology (*'ilm al-kalām*), ethics (*'ilm al-sulūk*) and mysticism (*'ilm al-taṣawwuf*).⁷⁶ This conventional understanding, however, is overlaid by a profound engagement with the ideas of modern Islamism as formulated by Ḥasan al-Bannā (d. 1949) and Sayyid Sābiq (d. 2000), two figures who have had a major influence on al-Qaraḍāwī's intellectual and political formation. Al-Qaraḍāwī's notion of *fiqh* thus lies at the intersection of Muslim scholarly tradition and political activism.⁷⁷ His specific reconfiguration and engagement of these two discourses, I argue, subject the human being (*insān*) in a particular manner to Islam's normative rules (*aḥkām*, sg. *ḥukm*) by putting it into

⁷⁴ Bayat contrasts this “cheap” Islamization, which became the dominant strategy in the mid-1990s and which resorts “to the language of moral and cultural purity”, with a more “costly” version that seeks to establish “an Islamic polity and economy” and to conduct “international relations compatible with the modern national and global citizenry” (2007: 9).

⁷⁵ al-Qaraḍāwī 1994a. Although his later writings on sexuality and gender-related issues are marked by certain shifts, which have been discussed by Stowasser (2001) and which will be the subject of chapter 5 in part III, I maintain that his heteronormative assumptions on gender and sexuality on ontological and theological grounds remain unchanged. The modern genealogy of these heteronormative assumptions which are articulated at the intersection of science, *fiqh* and theology still needs to be written for the Islamicate world. A first contribution in this direction has recently been made by Gadelrab (2016).

⁷⁶ al-Qaraḍāwī 1999c.

⁷⁷ On al-Qaraḍāwī's notion of *fiqh*, see also Salvatore 1997; Baker 2003; Polka 2003; Krämer 2006; Warren 2014.

a distinct relationship with its interior (*bāṭin*) and its exterior forum (*ẓāhir*), and to the realms of private (*al-ḥayāt al-shakhsiyya*) and public life (*al-ḥayāt al-‘amma*).⁷⁸

Part II of my study rests on the argument that al-Qaraḍāwī’s normative discourse and its underlying epistemology are ineluctably material in character.⁷⁹ Its chapters draw on al-Qaraḍāwī’s media theory *in nuce*, highlighting his distinct appropriation of the media as well as the particular positions and imaginations of the pious subject that are inscribed in it, namely the pious reader of the Islamic book, the devout enquirer (*mustaftī*) of scholarly opinion (*fatwā*) and modern media’s virtuous consumer.⁸⁰ Media, as I will point out, are represented in al-Qaraḍāwī’s discourse primarily as powerful and effectual (*ta’tḥirī*) tool (*wasīla*) for seeking knowledge (*ṭalab al-‘ilm*) and the cultivation of a virtuous self. Their proper engagement effects in their consumer an understanding (*fahm*) of his or her outward actions (*af‘āl ẓāhira*) in the light of Islam and its normative rules (*aḥkāṃ*, sg. *ḥukm*). The success of this transformation, however, crucially depends on the disciplinary regulation of the production and consumption of media that simultaneously restricts and enables the subject’s epistemological and moral transformation through them. These regulations, as I will show, are on the one hand grounded in more traditional concerns on the proper ways of reading and writing (chapter II.1) and of asking (*istiftā*) and providing (*iftā*) formal legal opinions (chapter II.3), which al-Qaraḍāwī partially extends to the

⁷⁸ The debate on the role of the interior and the exterior forum in Islamic normativity has a long genealogy in Western academic scholarship. Samira Haj has argued that early Orientalist scholars represented Islam as a rigidly legalistic tradition which ignores the believer’s inner state, and that subjective interiority has often been considered to have been introduced into Islam in modern times (Haj 2011: 237–238). However this belief about traditional religious legalism was contested as early as 1925 by Goldziher (1925: 88), and later by Barber Johansen (1999), Brinkley Messick (2001) and Talal Asad (2003: 225), among others.

⁷⁹ My analysis rests on interviews with Sultan Wahba, al-Qaraḍāwī’s primary publisher, conducted in Cairo in December 2012, on al-Qaraḍāwī’s biography and on his two texts *Fī ṭarīq ilā Allāh: al-ḥayāt al-rabbāniyya wa-l-‘ilm* (2007) and *al-Fatwā bayna al-inḍibāt wa-l-tasayyub* (2008). While I discuss his particular engagement with the *adab al-fatwā* genre in *Fatwā* (2008), the sole study of al-Qaraḍāwī’s involvement with neo-Sufism and its imprint on his biography and thought has been provided by al-Khateeb (2009). It definitely deserves further study.

⁸⁰ My use of the concepts of “subjectivation” and “subject” draw on Foucault’s late work on governmentality and technologies of the self, and Butler’s critical rereading of Althusser (Foucault 1988; 1991; 1992; Butler 1997b). For a lucid introduction to Foucault’s discovery of the subject in the context of the Iranian revolution, see Sarasin 2010: 172–190. Recently, two cogent introductions to Butler’s thoughts on the subject have been provided by Bublitz (2013: 79–97) and Villa (2012: 35–58).

production and consumption of new media (*i'ḷām*) (chapter II.4). On the other hand, however, his concerns reflect at the same time a distinctly modern critique of the liberal media market and its modern consumers' sensibilities. Chapter II.2 tries to link the arguments of the preceding three chapters by providing a close reading of al-Qaraḏāwī's first and most important publication, *al-Ḥalāl*.⁸¹ Here, I seek to illustrate how his theoretical reflections on gender (chapter I.1), *fiqh* (chapter I.2), and the book (chapter II.1) translate into practice, and how this translation reconfigures the characteristic structure and conventional architecture of Muslim normative writing.

Part III marks a change in perspective. Whereas the previous parts inquire into the production (part I) and circulation (part II) of Islamic norms on gender and sexuality in al-Qaraḏāwī's publications and media appearances, the subsequent chapters scrutinize the adaption of these norms to the reality (*al-wāqī'*) and daily life (*ḥayāt*) of his imagined audience.⁸² Al-Qaraḏāwī represents the media as a privileged and indeed indispensable means for providing the Muslim scholar and activist with access to people's lived realities. By claiming a perfect harmony between divine revelation and mediated reality – or between shari'a and human nature (*fiṭra*) – this mediated reality, I argue, acquires for itself a powerful normative force. This force finds its most paradigmatic expression in the notion of the *fiqh* of reality (*fiqh al-wāqī'*). This *fiqh* of reality encompasses on the one hand a particular capacity and innate flexibility (*sa'a wa-murūna*) to adapt to reality. In this perspective, reality is ascribed a specific temporal structure that stretches between the poles of continuity (*thābit*) and change (*mutaghayyir*). On the other hand, this *fiqh* seeks to regulate reality as a site of constant violation, transgression and an antagonistic encounter with a non-Islamic other. Both the discourse on temporality and on identity and alterity are profoundly gendered.

The *fiqh* of reality, I further argue, comprises a particular rereading and re-engagement with the discursive traditions of Islamic normativity that accentuates shari'a's

⁸¹ al-Qaraḏāwī 1960. While all my subsequent page references refer to the edition of 1994, I will – for the sake of chronological clarity – stick to referring to it as al-Qaraḏāwī 1960.

⁸² My notion of an imagined audience obviously draws on Benedict Anderson's *Imagined Communities* (1991) and his insights on the crucial role of print capitalism for the creation of national consciousness. Michael Warner, on whom Charles Hirschkind (2009) builds in his analysis of the Islamic revival's counterpublic, has provided inspiring reflections on the discursive mechanics of addressing and constructing an imagined public (Warner 2002).

aims (*maqāṣid al-sharīʿa*) and its moral dimensions (chapter III.4). In this re-engagement, I suggest in my final chapter, on the issue of “females’ circumcision” (*khitān al-ināth*), the boundaries of Islamic normativity are deliberately shifted and redrawn so to open up new dialogical pathways to other epistemic fields in which different – but not less normative – representations of reality and human nature are produced: namely, medicine and modern science. This shift moves the boundaries of Islamic normativity towards a discipline that is – at least in al-Qaraḍāwī’s perspective – intimately tied to the subject’s inner dimensions rather than its outward actions, and which ironically largely resonates with a secularist notion of religion as a spiritual and inner experience: mysticism and ethics (*ʿilm al-taṣawwuf wa-l-sulūk*).

2. Al-Qaraḍāwī and Academic Scholarship Revisited⁸³

Doha, 25 December 2012. I'm sitting with Shaykh 'Abd Allāh, my "local informant", in al-Qaraḍāwī's office. Since my arrival, I have been anxious about whether I would be able to gain access to the field: a crucial and (at times) critical step in anthropological fieldwork. Now I'm "in", resting in a comfortable armchair, sipping a glass of tea and exchanging a number of witty remarks with al-Qaraḍāwī's office staff. My field has embraced me.

'Abd Allāh's announcement that the shaykh is ready for an interview takes me by surprise. I wasn't prepared for this. Combing through the shaykh's voluminous oeuvre back in my office at the Institute for Oriental Studies at the University of Zurich during the past year and a half, I was primarily interested in learning more about the specific conditions and the people who are involved "behind the scenes", so to speak, in the production of this global authority. My host, however, cordially insists. I'm torn between sentiments of pride and pure embarrassment.

Two days later, my interview with al-Qaraḍāwī is published on his personal website.⁸⁴ I'm represented as a Swedish researcher who interviewed al-Qaraḍāwī on the comprehensiveness of Islam and on his latest edition of al-Ḥalāl. It strikes me that I might have recklessly squandered Orientalism's privileged comfort zone of an interested – but safely distanced – observer. My field has consumed and disgorged me. I'm half Sudanese, half Swiss.

In his seminal study *Islam and the Political Discourse of Modernity*, Armando Salvatore maintains that modern Islamist discourse is inescapably caught in a "transcultural 'short-circuit'", in which the perspectives of the supposedly external etic observer and of the internal emic actor are inextricably entwined.⁸⁵ Contemporary Islamist discourse on Islam

⁸³ The most extensive overview over the state of research on al-Qaraḍāwī has been provided by Gräf (2009b; 2010: 84–101). While revisiting Gräf's summaries, I will also include later studies that have been published on al-Qaraḍāwī and his works since 2010.

⁸⁴ al-Qaraḍāwī 2012b.

⁸⁵ Salvatore 1997: 198–199.

and Muslim identity, put differently, is intimately tied to Western discourse on its *Other*, and – as some academics claim *pace* Said⁸⁶ – vice versa.

Al-Qaraḍāwī has been subject to academic scrutiny for the past two decades.⁸⁷ Surprisingly, no English-language monograph on his life or his work has been published thus far.⁸⁸ This monographic silence, however, contrasts with the plethora of articles in English that have engaged with various aspects of al-Qaraḍāwī's life and *oeuvre*.

Among the earliest research contributions from a political science perspective stands Armando Salvatore's aforementioned title.⁸⁹ In its eleventh chapter, Salvatore depicts al-Qaraḍāwī as among the most prominent intellectual proponents of the Islamic awakening (*al-ṣahwa al-islāmiyya*) since the 1970s.⁹⁰ As such, Salvatore argues, al-Qaraḍāwī is firmly rooted in the Islamic movement, while simultaneously seeking to preserve in this movement the privileged position of the traditional body of Muslim scholarship (*'ulamā'*).⁹¹ This preservation of the *'ulamā'*'s privilege to guide and interpret the Islamic awakening, however, requires a redefinition of their role and of the Islamic knowledge (*'ilm*) that emphasizes their function in the public sphere.⁹²

Salvatore's study in many regards set the tone for later academic research on al-Qaraḍāwī. Three overlapping analytical perspectives have dominated this academic engagement: politics, *fiqh* and new media.⁹³

⁸⁶ Said 1978. Incidentally, I had a translation of Edward Said's *Orientalism* (1978) in my bag when I met al-Qaraḍāwī in his office in Doha, which I gave him as a gift. His reaction was mixed. First, he rhetorically asked if Edward Said was not a Christian; a point that had slipped my mind. But then he conceded that as a postcolonial thinker he had done much for Muslims and Islam.

⁸⁷ According to Gräf (2009b: 25, n. 3), the first academic reference to al-Qaraḍāwī in a European language was made by Gudrun Krämer (1994). Given this long scrutiny, it is thus "in the nature of things" that this review of the state of research is partial.

⁸⁸ Two monographs were released in German in the 2000s. Wenzel-Teuber's *Islamische Ethik* and Bettina Gräf's *Medien-Fatwas@Yusuf al-Qaradawi*. Both contributions will be discussed below.

⁸⁹ Salvatore 1997.

⁹⁰ Salvatore 1997: 201.

⁹¹ Salvatore 1997: 201. In describing this specific position, Gudrun Krämer would later coin the notion of the "scholar-cum-activist" (2006: 198, n. 34).

⁹² Salvatore 1997: 204.

⁹³ Gräf 2010: 94. As well as this, a number of studies have presented a more general portrait of al-Qaraḍāwī's life and thought. See e.g. Kursawe 2003; Soage 2008; 2010; Gräf 2013b.

In *Islam without Fear*, William Baker identifies al-Qaraḍāwī as among the major proponents of an intellectual circle within Islamism’s Centrist trend or “middle way” (*wasatīyya*).⁹⁴ The members of this circle, which besides al-Qaraḍāwī includes scholars and activists such as Muḥammad ‘Imāra (b. 1931), Fahmī Huwaydī (b. 1936), Muḥammad Salīm al-‘Awwā (b. 1942) and Muḥammad al-Ghazālī (d. 1996), “pragmatically choose to utilize professional organizations and other civil society institutions in order to realize their dream of a more righteous Islamic society”.⁹⁵ Sagi Polka highlights a number of characteristic traits that mark the ideological position of these Centrists: their claim of Islam’s comprehensiveness (*shumūl al-islām*); a particular conception of Islamic temporality that stretches along the bipolar axis of continuity (*thābit*, lit. “lasting”) and change (*mutaghayyir*); dialogue; the aim of striking a harmonious balance between reason and tradition (*al-‘aql wa-l-naql*); a gradualist approach (*tadarruj*) in applying Muslim law to state and society; and the fusion of tradition (*aṣāla*) and modernity (*mu‘āṣira*).⁹⁶

This last point has been subject to further scrutiny in the first monograph that appeared (in German) on al-Qaraḍāwī.⁹⁷ In his highly erudite study that is based on almost all of al-Qaraḍāwī’s book publications up to the mid-1990s, Wenzel-Teuber seeks to situate the scholar’s thinking along the analytical categories of tradition and modernity.⁹⁸ Identifying al-Qaraḍāwī as a major ideologist of the Egyptian Muslim Brotherhood and of mainstream Islamism,⁹⁹ he examines al-Qaraḍāwī’s quest for an Islamic solution (*al-ḥall al-islāmī*) in various fields such as *fiqh*, economy, culture and politics.¹⁰⁰ Highlighting the eclecticism that marks al-Qaraḍāwī’s engagement with tradition and modernity, he concludes that the two categories are inextricably entwined.¹⁰¹

⁹⁴ Baker 2003. On the emergence and definition of *wasatīyya* in al-Qaraḍāwī’s works, see Gräf 2009a. In the following, I will translate the term as “middle way”.

⁹⁵ Polka 2003: 41.

⁹⁶ Polka 2003: 41–44.

⁹⁷ Wenzel-Teuber 2005.

⁹⁸ Wenzel-Teuber 2005: 33.

⁹⁹ Wenzel-Teuber 2005: 30.

¹⁰⁰ In doing this, he draws constant comparisons between al-Qaraḍāwī’s ideas and those of other Islamist thinkers like Muḥammad ‘Abduh (d. 1905), Rashīd Riḍā (d. 1935), Ḥasan al-Bannā (d. 1949), Sayyid Quṭb (d. 1966) and Muḥammad ‘Imāra.

¹⁰¹ Wenzel-Teuber 2005: 363.

Other scholars have engaged with political categories and have sought to position al-Qaraḍāwī along the ideological spectrum of liberalism and extremism. In his anthology *Liberal Islam*, Charles Kurzman characterizes al-Qaraḍāwī with other intellectuals and activists such as ‘Alī Sharī‘atī (d. 1977), Mohamed Arkoun (d. 2010), ‘Abd Allāh al-Na‘īm and ‘Abd al-Karīm Surūsh as a liberal thinker, due to his rejection of Islamic extremism and violence.¹⁰² Gudrun Krämer, in her analysis of al-Qaraḍāwī’s position on apostasy (*ridda*), arrives at a somewhat contrary conclusion.¹⁰³ Drawing on a close reading of the booklet *Jarīmat al-ridda wa-‘uqūbāt al-murtadd fī ḍaw’ al-qur’ān wa-l-sunna* – literally, “The Crime of Apostasy and the Apostate’s Punishment in the Light of the Qur’an and the Sunna” – which al-Qaraḍāwī published shortly after the assassination of Egyptian secularist thinker Faraj Fūda (d. 1992),¹⁰⁴ she highlights al-Qaraḍāwī’s indirect endorsement of the court’s exculpation of Fūda’s killers. “Moderation”, she pins down her thoughts, “does not equal liberalism.”¹⁰⁵

At around the same time, a number of academics have examined al-Qaraḍāwī’s engagement with secularism.¹⁰⁶ In his essay “The Construction and Deconstruction of Secularism”, Masud highlights the different experiences of secularism in the Islamic world.¹⁰⁷ Comparing al-Qaraḍāwī’s thoughts¹⁰⁸ to those of Abū al-‘Alā Mawḍūdī (d. 1979), Muḥammad Naqīb al-‘Aṭṭās (b. 1931), Muḥammad Iqbāl (d. 1938) and Fazlur Rahman (Faḍl al-Raḥmān, d. 1988), he underlines the former’s particular conception of and strict opposition to secularism’s presumed separation of the world and the religious.¹⁰⁹ Unlike Mawḍūdī, Masud observes, al-Qaraḍāwī draws a distinction between secularism and atheism (*ilhād*).¹¹⁰ This distinction allows him to mark and marginalize secularism as a particularly Western and Christian experience. Christianity has no concept of shari‘a, and in the West secularism fills this gap. But secularism thus has no place in Islam, since Islam

¹⁰² Kurzman 1998: 196–204.

¹⁰³ Krämer 2006.

¹⁰⁴ al-Qaraḍāwī 1996g.

¹⁰⁵ Krämer 2006: 214; al-Qaraḍāwī 1996g.

¹⁰⁶ This includes Masud 2005; March 2008; Esposito 2010; Larsson 2010.

¹⁰⁷ Masud 2005.

¹⁰⁸ In his analysis, Masud refers specifically to al-Qaraḍāwī’s *al-Islām wa-l-‘ilmāniyya wajhan li-wajhin* (1997b).

¹⁰⁹ Masud 2005: 371–372. In the past two decades, several scholars have criticized and refined our understanding of this presumed opposition; see e.g. Casanova 1994; Asad 2003.

¹¹⁰ Masud 2005: 372.

is “a comprehensive system of laws that govern every sphere of life”.¹¹¹ Secularism in Islamic societies, by implication, equals blasphemy (*kufr*) and the penal act of apostasy (*ridda*).¹¹²

Andrew March examines al-Qaraḍāwī’s thoughts on Western secularism within the framework of what has been called the “Jurisprudence of Muslim Minorities” (*fiqh al-aqalliyyāt*) discourse.¹¹³ In his article, March draws on the example of an online fatwa, in which al-Qaraḍāwī claims that it is “permissible for Muslims to align themselves with other faith groups to fight against the homosexual movements”.¹¹⁴ This allows March to scrutinize and depart from political liberalism’s “simple assumption” that religious minorities prefer to endorse public reason if their own exclusive and potentially threatening reason cannot prevail.¹¹⁵

Husam Tammam and Aaron Rock-Singer have studied al-Qaraḍāwī’s relation to the Muslim Brotherhood.¹¹⁶ While Tammam outlines the parallels between the political trajectory of the Brotherhood and al-Qaraḍāwī’s intellectual development, Rock-Singer analyses the latter’s contribution in redefining the movement’s call (*da‘wa*) and his vision of an institution-based preacher education. This vision, Rock-Singer argues, not only deploys Muslim scholarly traditions to new circumstances but also engages with categories transmitted by the civil education system and others that are alien to this tradition.¹¹⁷

Since the mid-2000s, a number of articles have dealt more narrowly with al-Qaraḍāwī’s “politicization of *fiqh*”.¹¹⁸ Several academics have considered al-Qaraḍāwī’s contribution to the aforementioned “Jurisprudence of Muslim Minorities” (*fiqh al-*

¹¹¹ Masud 2005: 372.

¹¹² Masud 2005: 371–372.

¹¹³ March 2008.

¹¹⁴ March 2008: 2830. The fatwa was no longer online when I checked on 20 February 2017. Other texts by al-Qaraḍāwī that March consults are *al-Ḥulūl al-mustawrada* (1977a), *Min fiqh al-dawla fī al-islām* (1997), the English translation of *Priorities of the Islamic Movement* (2000b) and *Fī fiqh al-aqalliyyāt* (2001c).

¹¹⁵ March 2008: 2822. The studies by John Esposito (2010) and by Göran Larsson (2010) put al-Qaraḍāwī’s engagement with secularism into a comparative perspective. Neither author mentions the previous articles by Masud (2005) and March (2008).

¹¹⁶ Tammam 2009; Rock-Singer 2016a.

¹¹⁷ Rock-Singer 2016a: 604.

¹¹⁸ Gräf 2009b: 19.

aqalliyyāt).¹¹⁹ While Alexandre Caeiro takes up a fatwa by the European Council for Fatwa and Research (ECFR) on the purchase of houses through an interest-bearing mortgage, Sarah Albrecht presents a summary of al-Qaraḍāwī's major publication on the topic.¹²⁰ Uri Shavit draws a comparison between *wasatī* and *salafī* approaches to *fiqh al-aqalliyyāt*, underlining the centrality of the ethico-legal concept of *maṣlaḥa* to the former.¹²¹ Said Fares Hassan provides the most comprehensive study of al-Qaraḍāwī's contribution to the topic.¹²² According to Hassan, this contribution marks a major "paradigm shift".¹²³ Deviating from the classical debate on the legality of staying in non-Muslim territory, al-Qaraḍāwī urges Muslims to do so in order to spread the universal message of Islam to the world.¹²⁴ His reconceived notion of minority *fiqh*, Hassan concludes, is marked by an unwillingness to reproduce older controversies "in an era that has different rules, that is, constitution, civil society, human rights, minority rights, etc.". ¹²⁵

Providing a somewhat complementary perspective, Alexandre Caeiro and Mahmoud al-Saify have looked at the presence of al-Qaraḍāwī in Europe.¹²⁶ His prominence in the European public sphere "through personal visits, translation of books, production of fatwas and airing of television satellite programs", they argue, defies the assumption of an ongoing fragmentation of religious authority in the West.¹²⁷ Rather, he represents "the classic example of the transnational religious leader".¹²⁸ While the first part of their study inquires into the genealogy and significance of al-Qaraḍāwī's intellectual and institutional engagement with Muslim minorities living in the West,¹²⁹ its second part analyses the circulation and appropriation of al-Qaraḍāwī's discourse by different actors in Europe,

¹¹⁹ Here, the major reference is al-Qaraḍāwī's book *Fī fiqh al-aqalliyyāt al-muslima* (2001a).

¹²⁰ Caeiro 2004; Albrecht 2010; al-Qaraḍāwī 2001a. Among the first scholars to have highlighted the significance of al-Qaraḍāwī's contribution in this field is Mathias Rohe (2003; 2007).

¹²¹ Shavit 2013. The term *maṣlaḥa* is often translated as "the common good" or "the public good". Following Felicitas Opwis's critical remarks on the problematic of translating *maṣlaḥa*, I will stick in the following to the Arabic term. Opwis 2007: 204.

¹²² Hassan 2013.

¹²³ Hassan 2013: 75.

¹²⁴ Hassan 2013: 76.

¹²⁵ Hassan 2013: 75.

¹²⁶ Caeiro/al-Saify 2009.

¹²⁷ Caeiro/al-Saify 2009: 109.

¹²⁸ Caeiro/al-Saify 2009: 135.

¹²⁹ Caeiro/al-Saify 2009: 111–118.

including Muslim communities, mainstream media and the state.¹³⁰ While to some Muslim communities he has come to stand as a symbol and a test of Muslim authenticity, he represents to mainstream media “the epitome of the Islamic fundamentalist threat”, particularly since 9/11.¹³¹

In a parallel line of analysis, Motaz al-Khateeb has considered al-Qaraḍāwī and the shifting notion of authority in Sunni Islam.¹³² He describes the latter as an embodiment of *marjiʿiyya*, a central authoritative reference.¹³³ Al-Khateeb contrasts the personalized concept of *marjiʿiyya* in the Shiʿi context with the Sunni context, where the notion represents rather the authoritative reference of a system of thought.¹³⁴ He argues that al-Qaraḍāwī appears to blur the boundaries between these two conceptions.¹³⁵ Different from the Shiʿi *marjiʿiyya*, however, al-Qaraḍāwī’s position is not imposed by clerical structure but “by virtue of several factors on the personal, scholarly, political, and media level”.¹³⁶ Al-Khateeb identifies three formative elements of al-Qaraḍāwī’s singular authority, comprising his contributions to *fiqh*, the specific historical context in which he operates and a number of personal factors.¹³⁷ Finally, al-Khateeb raises the question of the future of this personalized authority after al-Qaraḍāwī (*baʿd al-Qaraḍāwī*), conceding the possibility of a return of *marjiʿiyya* as a system of thought.¹³⁸

More recently, two contributions have engaged with al-Qaraḍāwī in the context of the Arab Uprising and its aftermath. David Warren and Christine Gilmore have studied al-Qaraḍāwī’s new *fiqh* of citizenship (*fiqh al-muwāṭana*) for non-Muslims against the backdrop of the Muslim Brotherhood’s election victory in Egypt, and the looming prospect of the emergence of an Islamic state.¹³⁹ While acknowledging the potential of de-centring “the

¹³⁰ Caeiro/al-Saify 2009: 118–134.

¹³¹ Caeiro/al-Saify 2009: 123.

¹³² al-Khateeb 2009. When referring to al-Khateeb’s writings in Arabic, I use the transliteration of his name, i.e. Muʿtazz al-Khaṭīb.

¹³³ A similar suggestion had been made earlier by Gudrun Krämer (2006).

¹³⁴ al-Khateeb 2009: 86.

¹³⁵ al-Khateeb 2009: 86–87. Or as Ḥassan Naṣrallāh, the secretary general of Hizbullah, put it: “[al-Qaraḍāwī] represents something akin to our *marjiʿiyya*” (cited without reference in al-Khateeb 2009: 87).

¹³⁶ al-Khateeb 2009: 87.

¹³⁷ al-Khateeb 2009: 96–101.

¹³⁸ al-Khateeb 2009: 103.

¹³⁹ Warren/Gilmore 2014.

dominant Western model of common citizenship”, they also stress the inherent tensions of al-Qaraḍāwī’s endeavour to integrate modern concepts into legal tradition.¹⁴⁰ In a second article published in the same year, David Warren criticizes the all-too-narrow scope of those political studies that situate al-Qaraḍāwī’s work solely in the Egyptian context.¹⁴¹ Consequently, he extends the scope of his analysis to the international level. Exploring al-Qaraḍāwī’s “highly publicized interventions in relation to Egypt, Libya, Bahrain, and Syria”, he underlines al-Qaraḍāwī’s attempt to maintain a precarious balance. On the one hand, al-Qaraḍāwī seeks to preserve his virtual self-stylization as an independent scholar according to the authoritative discourse of Muslim scholarly tradition. On the other hand, he is committed to “a diverse base of supporters”, including the Muslim Brotherhood, his public audience and the Qatari royal family.¹⁴² Al-Qaraḍāwī thus faces a conundrum, Warren concludes, and his attempts to resolve it are ultimately doomed to fail.¹⁴³

Following the overthrow of Muḥammad Mursī on 3 July 2013, Uriya Shavit discusses al-Qaraḍāwī’s view on the legitimate use of violence against an unjust Muslim regime (*aḥkāṃ al-bughāh*, lit. “the rulings on rebellions”).¹⁴⁴ Consonant with his self-characterization as a moderate (*wasatī*), Shavit argues, al-Qaraḍāwī seeks to claim a middle ground between what he perceives as “enthusiast extremist and literalist youth” and the “religious scholars of the regime and the agents of the police (*‘ulamā’ al-ṣulṭa wa-‘umalā’ al-shurṭa*) who argue, fearing anarchy, that only *walī al-amr* [(the ruler)] can enforce change”.¹⁴⁵ al-Qaraḍāwī, Shavit continues, defines three criteria for the legitimate application of physical violence to correct a wrong. First, the wrong must constitute a *ḥarām* on which there is a juristic consensus. Second, it must be one that is witnessed publicly. And third – and this point is crucial – the individual or group must be certain to succeed.¹⁴⁶ This certainty, Shavit continues in outlining al-Qaraḍāwī’s view, rests on having control over three powers: the military, the parliamentary majority and the power of the

¹⁴⁰ Warren/Gilmore 2014: 229.

¹⁴¹ Warren 2014.

¹⁴² Warren 2014: 2.

¹⁴³ Warren 2014: 32.

¹⁴⁴ Shavit 2015: 612. His major source is al-Qaraḍāwī’s *Min fiqh al-dawla fī al-islām* (1997).

¹⁴⁵ Shavit 2015: 612.

¹⁴⁶ Shavit 2015: 612.

masses.¹⁴⁷ If one of these three powers is beyond control, then the rebels “must wait with patience and perseverance” until they have control of it, trying in the meantime “to bring about change by preaching and writing”.¹⁴⁸ Just like al-Bannā and other mainstream Islamists, Shavit concludes, al-Qaraḍāwī encourages “political passivity”, since “applying violence in order to topple an unjust ruler is legitimate only as a last resort”.¹⁴⁹ As Shavit concedes with regard to al-Qaraḍāwī’s retroactive support of the violent rebellions against the Syrian and Libyan regimes between 2011 and 2013, however, the “legitimacy of taking sides in an already existing *fitna* is a different issue”.¹⁵⁰

The second analytical perspective that dominates the academic engagement with al-Qaraḍāwī focuses primarily on *fiqh*.¹⁵¹ Building on Salvatore’s earlier insights on the redefinition and politicization of *fiqh* in al-Qaraḍāwī’s writings, Muhammad Qasim Zaman has published two studies on al-Qaraḍāwī’s ethico-legal thought.¹⁵² In the earlier of his two essays, he tackles al-Qaraḍāwī’s contribution to contemporary Muslim discussions of *maṣlaḥa*, or the “common good”.¹⁵³ While highlighting al-Qaraḍāwī’s selective recourse to older discussions of *maṣlaḥa* by al-Ghazālī (d. 505/1111), the Hanbali jurist Najm al-Dīn al-Ṭūfī (d. 716/1316) and al-Shāṭibī (d. 790/1388), Zaman carves out al-Qaraḍāwī’s expansive reinterpretation of the concept.¹⁵⁴ This reinterpretation, Zaman concludes, is crucial to constitute and sustain the public role of *fiqh*.¹⁵⁵ Zaman’s second essay investigates al-Qaraḍāwī’s response to the modern challenges to the doctrine of consensus (*ijmāʿ*).¹⁵⁶ Again, Zaman highlights the tension between al-Qaraḍāwī’s endeavour to enlarge the sphere of

¹⁴⁷ Shavit 2015: 612.

¹⁴⁸ Shavit 2015: 612.

¹⁴⁹ Shavit 2015: 613.

¹⁵⁰ Shavit 2015: 614.

¹⁵¹ Gräf 2010: 94.

¹⁵² Zaman 2004; 2006.

¹⁵³ Zaman 2004. Zaman’s article rests on the analysis of three books by al-Qaraḍāwī: *Malāmiḥ al-mujtamaʿ al-islāmī alladhī nunshiduh* (1993a), *al-Siyāsa al-sharʿiyya fī ḍawʿ nuṣūṣ al-sharʿa wa-maqāṣidihā* (2011d) and *Kayfa nataʿamal maʿ al-turāth wa-l-tamadhub wa-l-ikhtilāf* (2001b). On the translation of *maṣlaḥa*, see my remarks above, p. 29 n. 21.

¹⁵⁴ Zaman 2004: 134–135.

¹⁵⁵ Zaman 2004: 135. Recently, Mahmud El-Wereny has published an article on al-Qaraḍāwī’s notion of *maṣlaḥa* (2016). El-Wereny does not mention Zaman (2004), and discusses very few other contributions to the rich academic research literature on *maṣlaḥa*.

¹⁵⁶ Zaman 2006.

this consensus while preserving the prerogatives of the ‘*ulamā*’ to (re)draw and guard its boundaries.¹⁵⁷

Building on Zaman’s insights, Armando Salvatore takes the argument a step further by re-situating al-Qaraḍāwī’s engagement with *maṣlaḥa* in its political context.¹⁵⁸ Salvatore argues that this context is marked by the “enduring authoritarianism”¹⁵⁹ and “the demise of the legitimacy of the postcolonial state”¹⁶⁰ which operate under the neo-liberal aegis of international agencies.¹⁶¹ Drawing on Gudrun Krämer,¹⁶² he points out that *maṣlaḥa* provided “the most obvious anchorage of modern Islamic republican thinking facing the resistant authoritarianism of contemporary regimes”.¹⁶³ Although Islamic activism seeks to capture “the fiscal sources of command over welfare, i.e. state power”¹⁶⁴ in the long run, al-Qaraḍāwī’s path of a middle way (*waṣaṭiyya*) and gradualism (*tadarruj*) has proved to be crucial for Islamic social activism. Exiting from “the exclusivity of the nation–state frame”, its emphasis has shifted from “political Islam” to the “public Islam” of a transnational public sphere.¹⁶⁵

David Johnston has provided two studies on al-Qaraḍāwī’s adoption of the legal methodology of the *maqāṣid al-sharīʿa*.¹⁶⁶ Whereas his first article characterizes al-Qaraḍāwī as a textualist,¹⁶⁷ he argues in his second publication that al-Qaraḍāwī’s growing intellectual attraction to this “purposive methodology” in the 1990s and 2000s dovetails neatly with his self-positioning as a scholar of international standing.¹⁶⁸ Eventually, Johnston raises the question of whether the focus on the *maqāṣid* is likely to undermine the authority of

¹⁵⁷ Zaman 2006: 171.

¹⁵⁸ Salvatore 2009.

¹⁵⁹ Salvatore 2009: 40.

¹⁶⁰ Salvatore 2009: 249.

¹⁶¹ Salvatore 2009: 246.

¹⁶² Krämer 1999.

¹⁶³ Salvatore 2009: 245.

¹⁶⁴ Salvatore 2009: 244.

¹⁶⁵ Salvatore 2009: 245.

¹⁶⁶ Johnston 2011; 2014.

¹⁶⁷ Johnston 2011: 196.

¹⁶⁸ Johnston 2014: 39.

traditional Muslim scholarship (*‘ulamā*) in a century “marked by a radically democratized public sphere”.¹⁶⁹ He answers in the affirmative.¹⁷⁰

Focusing on a particular genre of *fiqh*, a number of scholars have investigated al-Qaraḍāwī’s theoretical and practical engagement with the fatwa.¹⁷¹ Alexandre Caeiro places al-Qaraḍāwī’s contribution to the genre of the etiquette of the fatwa (*adab al-fatwā*) into a historical-comparative perspective.¹⁷² Based on his analysis, he highlights two major transformations in the fatwa’s authoritative arrangement in the twentieth century. The first transformation marks a shift from “straight-to-the-point fatwas to the *mustaftī*, who was an uneducated individual”, to “a wider public, which is then free to adopt or reject the advice”.¹⁷³ The second change marks a shift from the institutional authority of the mufti affiliated to his *madhhab* to “the textual authority of the independent scholar’s argument”.¹⁷⁴

The third major analytical focus in the academic study of al-Qaraḍāwī has been on new media.¹⁷⁵ While some research contributions in this field have engaged with a particular thematic aspect based on a limited selection of al-Qaraḍāwī’s media appearances, others have sought to interrogate the role of new media in the production and transformation of religious authority more fundamentally. In the early 2000s, Anne Sofie Roald analysed al-Qaraḍāwī’s appearances on the programme *al-Sharī’a wa-l-ḥayāt* on Al Jazeera, as part of a global theological scape in which “theologies of liberation, feminism, ecology, and human rights” merge.¹⁷⁶ Highlighting the popularity of his programme among immigrant Muslims in Scandinavia, she suggests that his pragmatic and moderate approach responds “to a particular need for immigrant Muslims in Europe”¹⁷⁷ and “opens up the way

¹⁶⁹ Johnston 2014: 40.

¹⁷⁰ Johnston 2014: 60. El-Wereny has also published an article on al-Qaraḍāwī’s notion of *maqāṣid* (2014). Again, El-Wereny refers to neither the earlier work by Johnston (2011) nor to his later article (2014).

¹⁷¹ Krawietz 1991; Masud et al. 1996; Skovgaard-Petersen 1997.

¹⁷² Caeiro 2006.

¹⁷³ Caeiro 2006: 672.

¹⁷⁴ Caeiro 2006: 672.

¹⁷⁵ Gräf 2010: 94.

¹⁷⁶ Roald 2001b: 32.

¹⁷⁷ Roald 2001b: 29.

for reconciliation between living ‘Islam’ and doing civil duties”.¹⁷⁸ Ermete Mariani has published an article in which he discusses – in addition to al-Qaraḍāwī’s political and economic activities – the crucial role of new media in establishing al-Qaraḍāwī as a transnational authority.¹⁷⁹ Peter Mandeville describes al-Qaraḍāwī as a “superstar” religious scholar and a central figure of a “virtual caliphate”.¹⁸⁰ This caliphate, Mandeville argues, represents not so much a political institution attached to territory but rather “an ideal of pan-Islamic ecumenism”. It is sustained by an emerging infrastructure of websites such as Islam Online, satellite television, widely-circulated books and major international conferences and research centres that seek to challenge extremism and to provide an antidote to radical jihadism.¹⁸¹ In his article “The Global Mufti”, Skovgaard-Petersen investigates “the impact of the al-Jazeera phenomenon on contemporary Arab understandings of Islam”.¹⁸² Drawing a comparison between al-Qaraḍāwī’s regular appearance on Al Jazeera’s *al-Sharī’a wa-l-ḥayāt* and Shaykh al-Sha’rawī’s (d.1998) programme on Egyptian national television, he maintains that the former’s insistence “on dialogue and argument, on educating and edifying the public and imbuing it with a rational, universal, and democratic Islam” very much resembles the “icon of European modernism”.¹⁸³ Al-Qaraḍāwī’s “universalist pan-Islamism”, he concludes, is “reminiscent of a modernist globalism that came to the fore in the Arab world a hundred years ago, but ever since has had to fight to establish a platform free of political control”.¹⁸⁴ Ehab Galal investigates the communicative methods and strategies of al-Qaraḍāwī with the use of new Islamic television.¹⁸⁵ Providing a genealogy of al-Qaraḍāwī’s appearances on television since the 1970s,¹⁸⁶ he highlights al-Qaraḍāwī’s and Al Jazeera’s successes “in combining new

¹⁷⁸ Roald 2001b: 53. In her discussion, Roald draws on two of al-Qaraḍāwī’s fatwas: one on the veil controversy in Turkish, French and Tunisian schools and universities; and one on the question of whether immigrant Muslims should join political parties in Western countries.

¹⁷⁹ Mariani 2003.

¹⁸⁰ Mandaville 2005.

¹⁸¹ Mandaville 2005.

¹⁸² Skovgaard-Petersen 2004: 154.

¹⁸³ Skovgaard-Petersen 2004: 164.

¹⁸⁴ Skovgaard-Petersen 2004: 165.

¹⁸⁵ Galal 2009: 149.

¹⁸⁶ Galal 2009: 151–153.

transnational media with Islamic thinking in a modern framework”.¹⁸⁷ While Al Jazeera’s *al-Sharī’a wa-l-ḥayāt* has become a model that has been copied by other Arab satellite channels, al-Qaraḍāwī has emerged as a powerful constituent of the Islamic dimension in this transnational public sphere.¹⁸⁸ Drawing a comparison between al-Qaraḍāwī’s regular appearance on Al Jazeera’s *al-Sharī’a wa-l-ḥayāt* and his weekly fatwa programme *Hady al-islām* (Guidance of Islam) on Qatari national television, Galal highlights the shift in al-Qaraḍāwī’s role from “an educator and informer” to “an agenda setter”.¹⁸⁹ Unlike Salafis and new Muslim missionaries (*du‘āh*, sg. *dā‘iya*) whose experience-based discourse addresses the individual believer, however, al-Qaraḍāwī’s primary attention is directed to the community, the group and the family. This absence of the powerful “discourse of individualization”, Galal concludes, might eventually expose his “weak spot”.¹⁹⁰

Bettina Gräf arrives at a similar conclusion in her earlier investigation of al-Qaraḍāwī’s virtual presence in cyberspace.¹⁹¹ She underlines al-Qaraḍāwī’s pioneering role in cooperating with journalists and media producers in order “to restore the influence of Muslim scholars in Muslim societies and worldwide”.¹⁹² Her analysis focuses on his website *qaradawi.net*, “the first personal website of an *‘ālim* in Arabic”.¹⁹³ Following Mariani’s earlier insight, Gräf maintains that al-Qaraḍāwī’s virtual presence can be assessed only in its technical and organizational context.¹⁹⁴ Consequently, she concludes that al-Qaraḍāwī’s translocal authority remains inextricably tied to “special sets of actions outside cyberspace”.¹⁹⁵ His claim to global authority, however, appears spurious, since he faces numerous competitors like the Egyptian lay preacher ‘Amr Khālīd, whose virtual presence attracts significantly more visitors.¹⁹⁶

In her PhD thesis – one of the two monographs published on al-Qaraḍāwī in German – Bettina Gräf expands her analytical focus by drawing a comparison between media forms

¹⁸⁷ Galal 2009: 150.

¹⁸⁸ Galal 2009: 150.

¹⁸⁹ Galal 2009: 173.

¹⁹⁰ Galal 2009: 150.

¹⁹¹ Gräf 2007; 2008; 2010.

¹⁹² Gräf 2007: 403.

¹⁹³ Gräf 2007: 407.

¹⁹⁴ Gräf 2007: 404.

¹⁹⁵ Gräf 2007: 419.

¹⁹⁶ Gräf 2007: 419–420.

with different regional ranges.¹⁹⁷ Situating the production and circulation of al-Qaraḍāwī's media fatwas in their particular context, she highlights the involvement of various actors in the production of these fatwas. In her conclusion, she argues that al-Qaraḍāwī's fatwas are subject to a process of "popularization" which affects their content and the nature of their authority alike.¹⁹⁸

Before situating my own study within this admittedly vast field of research, I would like to confront an issue that has all too often been neglected in Western academic research: the reception of al-Qaraḍāwī in Arabic.

Al-Qaraḍāwī's reception by Arabic scholars and thinkers is marked by a distinct tension.¹⁹⁹ While some publications bear an almost hagiographic imprint, others in contrast are bluntly antagonistic. The former category includes, for example, an edited collection of essays by more than sixty scholars and activists on the occasion of al-Qaraḍāwī's seventieth birthday, which reads, as Bettina Gräf puts it, like a contemporary *Who's Who* of the Islamic discourse community.²⁰⁰ It assembles contributions by Salīm al-ʿAwwā, Ṭarīq al-Bishrī, Hiba Raʿūf ʿIzzat, Rashīd al-Ghannūshī, Aḥmad al-Raysūnī, Muḥammad al-Ghazālī (d. 1996), Abū al-Ḥasan al-Nadwī (d. 1999) and Ḥasan al-Turābī (d. 2016). The majority of these scholars and activists are affiliated to the Islamist middle way (*wasatīyya*).²⁰¹

Public opposition to al-Qaraḍāwī arose as early as the mid-1970s, in particular in the works and pamphlets of Salafi and Shiʿi scholars.²⁰² In 1976, the renowned Wahhabi scholar Ṣāliḥ al-Fawzān published a critique of al-Qaraḍāwī's first book, generally considered to be his most important, *al-Ḥalāl wa-l-ḥarām fī al-islām*.²⁰³ Al-Fawzān targets al-Qaraḍāwī's legal philosophy, his views on friendship with non-Muslims (*mawaddat ghayr al-muslimīn*),

¹⁹⁷ Gräf 2010.

¹⁹⁸ Conermann 2011. More recently, Gräf has represented her insights in a condensed form in an English-language article (2014).

¹⁹⁹ Tammam 2009; al-Khateeb 2009; Caeiro/al-Saify 2009; Gräf 2010: 86–92.

²⁰⁰ al-Nuʿaymī 2003; Gräf 2010: 86.

²⁰¹ Similar publications include a homage by Muḥammad ʿImāra (1997), a collection of journalistic articles edited by the publisher Maktabat Wahba in Cairo (2001), an introduction to al-Qaraḍāwī's writings by Muḥammad Sayf al-Anṣārī (2003), a study of al-Qaraḍāwī's approach to the *daʿwa* by his former secretary Akram Kassāb (2007), a publication on al-Qaraḍāwī's poems (al-Nūtī 2004) and a study of al-Qaraḍāwī's intellectual development by Muʿtazz al-Khaṭīb (2009).

²⁰² Caeiro/al-Saify 2009; Gräf 2009b; 2010: 91–92; Shaham 2015.

²⁰³ al-Fawzān 1976.

smoking, the prohibition of wearing silk for men, his rule on the decency of the beard, photography, the disclosure of women's face and hands to male strangers, chess, cinema and – at length – singing.²⁰⁴

In the past few decades, Salafi polemics against al-Qaraḍāwī have proliferated, spreading across several monographs, numerous websites and YouTube clips.²⁰⁵ As Shaham highlights, many of al-Qaraḍāwī's Salafi critics are students of the traditionalist Muḥammad Nāṣir al-Dīn al-Albānī (d. 1999).²⁰⁶ Some of them formulate their critique within the traditional boundaries of *ikhtilāf*, that is, the legitimate “disagreement”, such as the former grand mufti Ibn Bāz (d. 1999) or al-Albānī himself.²⁰⁷ This group rejects many of al-Qaraḍāwī's positions on scholarly grounds, including his views on women, singing, dancing and the cinema, on the *zakāt*, on the use of revenues from interest-bearing investments, and on what they see as his all too permissive legal philosophy in principle.²⁰⁸ The majority, however, accuse him on personal grounds for forgery, heresy, outright corruption and personal immorality.²⁰⁹ They brand his desire for publicity as inappropriate, deny his scholarly credentials, blame him for factionalism and his deviation from the consensus of the community, or reproach him for his outright foolishness (*hawas*).²¹⁰

Paradoxically, however, al-Qaraḍāwī is one of the few scholars affiliated to the Muslim Brotherhood who has been able to forge more consensual ties with Salafi scholars.²¹¹ He has even become, as Tammam observes, an authority to the younger reformist Salafi current in Saudi Arabia and in Egypt that includes prominent figures like Salmān b. Fahd, Sāfir al-Ḥawālī and ʿĀʾid al-Qarnī.²¹² Al-Qaraḍāwī's initiative to seek reconciliation with Salafism dates back several years.²¹³ He sent “copies of his writings as

²⁰⁴ al-Fawzān 1976.

²⁰⁵ Shaham 2015: 121, 124.

²⁰⁶ Shaham 2015: 118. On the biography, ideology and impact of al-Albānī, see Lacroix 2008; 2014.

²⁰⁷ Shaham 2015: 124, 127. On Ibn Bāz, see Ende 1983; Kepel 2004: 164–167, 179, 184, 186, 188, 189, 262.

²⁰⁸ Shaham 2015: 127. Shaham refers to three YouTube clips: <http://www.youtube.com/user/1221islam>; http://www.youtube.com/watch?v=-v_PZctYgag; and <http://www.youtube.com/watch?v=1oSpO7cHA2E>. When checking them on YouTube on 22 February 2017, only the last of the three clips was available.

²⁰⁹ Shaham 2015: 127.

²¹⁰ Shaham 2015: 124–131.

²¹¹ Tammam 2009: 73–74.

²¹² Tammam 2009: 73.

²¹³ Tammam 2009: 83, n. 52.

gifts to Salafi shaykhs in Egypt and Saudi Arabia” and paid several visits to them in an attempt to open paths for dialogue and exchange.²¹⁴ His initiative might be seen, Tammam suggests, as a corrective to the fierce polemics that arose between Salafi scholars and his mentor and later colleague Muḥammad al-Ghazālī (d. 1996) after the latter’s publication of *al-Sunna al-nabawiyya bayna ahl al-fiqh wa-ahl al-ḥadīth* (literally, “The Prophetic Sunna between the Specialists of Jurisprudence and the Specialists of Tradition”).²¹⁵ Some Salafis have attempted for their part to present al-Qaraḍāwī to Saudi society “in an acceptable way” in order “to reconcile the Salafis with Shaykh Qaraḍāwī”.²¹⁶

Less known is al-Qaraḍāwī’s reception by Shi’i scholars.²¹⁷ Bettina Gräf mentions one monograph by Aḥmad Rasīm al-Nafīs published in 2006. In that work, al-Nafīs attacks al-Qaraḍāwī as an enemy of the Shi’a.²¹⁸ As several researchers have pointed out, al-Qaraḍāwī for his part has long advocated a rapprochement (*taqrīb*) and an “ecumenical attitude” towards the Shi’a.²¹⁹ This endeavour included his participation in a number of highly publicized conferences and media appearances, including a debate with the former president of Iran and chairman of Iran’s Assembly of Experts, Akbar Hāshimī Rafsanjānī, hosted on Al Jazeera in February 2007.²²⁰ Whereas al-Qaraḍāwī’s commitment to this rapprochement has been interpreted as a historical continuation of the classical idea of pan-Islamism as advocated by Jamāl al-Dīn al-Afghānī (d. 1897) and Ḥasan al-Bannā (d. 1946), the more immediate significance of the Sunni-Shi’i strife in Iraq has also been

²¹⁴ Tammam 2009: 83, n. 52.

²¹⁵ Tammam 2009: 83, n. 52. For an analysis of its content and the debate it provoked, as well as al-Qaraḍāwī’s contribution to the debate, see Brown 1996: 108–132. On al-Qaraḍāwī’s emotional and intellectual ties to his mentor and later colleague al-Ghazālī, see Skovgaard-Petersen 2009: 32; Gräf 2009a: 217; al-Khateeb 2009: 85–86, 91, 97, 100–101.

²¹⁶ Tammam 2009: 83, n. 51.

²¹⁷ According to Roald, Shi’a Muslims in Sweden and Denmark regularly followed al-Qaraḍāwī’s appearances on *al-Sharī’a wa-l-ḥayāt* (2001: 50). Nevertheless, some of her informants criticized al-Qaraḍāwī’s relative neglect of the *Ja’fari*, i.e. the *Imāmī* school of law (2001: 51).

²¹⁸ Gräf 2010: 92; al-Nafīs 2006.

²¹⁹ Elad-Altman 2007: 4, 5. It is significant, as Polka points out, that this ecumenical attitude includes also the *Ibāḍiyya*, which is today the official religion of the Sultanate of Oman, and the *Zaydiyya* and mainstream *Imāmiyya* (2013: 417). From Polka’s perspective, however, al-Qaraḍāwī in fact fails to tackle the theological differences between Sunni and Shi’a (2013: 426).

²²⁰ Polka 2013: 417. For some critical remarks on this debate, see Maghen 2014: 192.

indicated as relevant.²²¹ The year 2006, however, marked a change in his course.²²² As Elad-Altman has highlighted, this change took place against the backdrop of the so-called “Shi‘i surge” (*al-madd al-shi‘ī*), which has as its key elements Iran’s hegemonic ambitions to establish itself as a regional power, Iraq’s Shi‘i government, Hizbullah’s rise in Lebanon and an allegedly growing trend of Sunnis converting to Shi‘ism (*tashayyu’*) in Sunni-majority countries such as Egypt, Jordan, Syria, Sudan and Morocco.²²³ Al-Qaraḍāwī’s earlier ecumenical advocacy for a rapprochement of the legal schools (*taqrīb al-madhāhib*) had left him open to fierce attacks, with accusations that his programmatic emphasis on the proximity and similarity between basic Shi‘i and Sunni principles “has been used by former Sunnis to justify their conversion to Shiism” and to have opened “the door to Shiitization”.²²⁴

Al-Qaraḍāwī’s work and biography have become a kind of prism for Western academic scholarship, through which it studies the major transformations and trajectories of Islamism, public religious authority and Muslim normative thinking (*fiqh*) during the past five decades. However, despite the prolific scholarly output on al-Qaraḍāwī, vast segments of his voluminous *œuvre* – which includes over 170 written publications and countless media appearances – remain unanalysed in academic research. As well as other areas, this includes the majority of his publications on gender. So far only four authors have engaged in depth with al-Qaraḍāwī’s thoughts on women and homosexuality.

In her essay “Old Shaykhs, Young Women and the Internet”, published in 2001, Barbara Stowasser analyses the first volume of al-Qaraḍāwī’s fatwa collection, registering an important shift in his position on women’s rights.²²⁵ This shift signals, she argues, the emergence of “a new gender paradigm” in Islamist discourse.²²⁶ Whereas earlier discussions raised questions about the equality of the sexes in terms of their humanity and their personhood, and women’s rights to education and work, the new focus is now on women’s rights to political participation.²²⁷ Al-Qaraḍāwī’s contributions to this issue have been, as

²²¹ Polka 2013: 417.

²²² Elad-Altman 2007: 4; Brunner 2014.

²²³ Elad-Altman 2007: 1.

²²⁴ Elad-Altman 2007: 5.

²²⁵ Stowasser 2001: 101; al-Qaraḍāwī 2009a.

²²⁶ Stowasser 2001: 101.

²²⁷ Stowasser 2001: 102. She makes the same argument in a later essay as well (2008).

Stowasser puts it, “truly momentous” and represent “a re-tapping into the dynamic capabilities of Islamic jurisprudence”.²²⁸ According to Stowasser, his “liberal publications” have a wide resonance among traditionalist scholars, modernist intellectuals and Islamic feminists such as the prominent Egyptian activist and political scientist Hiba Ra’ūf ‘Izzat.²²⁹

In *Women in Islam*, Anne Sofie Roald examines the function of al-Qaraḍāwī’s writings and media appearances in the reconstruction of gender attitudes among Muslims living in the West.²³⁰ Putting al-Qaraḍāwī’s positions on divorce²³¹ and the veil²³² into a comparative perspective with those of a number of other Islamist thinkers and activists – most of them belonging to “the *ikhwān* stream of thought”²³³ – she highlights the centrality of the notion of the shari’a’s innate flexibility (*murūna*) that emerged in the late 1980s.²³⁴ She concludes that this notion enabled al-Qaraḍāwī and other thinkers to adapt their normative reflections according to circumstances and “to pave the way for alternative interpretations” of Islam’s perspective on gender.²³⁵

Scott Kugle and Stephen Hunt present a case study of a media fatwa against homosexuality issued by al-Qaraḍāwī in his programme *al-Sharī’a wa-l-ḥayāt*.²³⁶ Al-Qaraḍāwī’s reprobation of homosexuality represents, they argue, a neo-traditionalist and

²²⁸ Stowasser 2001: 102.

²²⁹ Stowasser 2001: 99. This finding resonates with Saba Mahmood’s insights in her study of the women’s mosque movement in Cairo (2011b). Mahmood highlights these women’s use of and reference to books by Sayyid Ṣābiq (d. 2000) and Yūsuf al-Qaraḍāwī (2011b: 83, n. 10).

²³⁰ Roald 2001a: ix. In her monograph, she consults four books by al-Qaraḍāwī: *al-Tarbiya al-islamiyya wa-madrasat Ḥasan al-Bannā* (1980), *Kayfa nata’āmal ma’ al-sunna al-nabawiyya* (1990), an English translation of his *Madkhal li-ma’rifat al-islām* (1996), and the first volume of his fatwa collection (al-Qaraḍāwī 2009a). In her article *The Wise Men* (2001b), she draws on an English translation of *al-Ḥalāl wa-l-ḥarām fī al-islām* (1960), al-Qaraḍāwī’s first and most renowned publication, and *al-Saḥwa al-islamiyya bayna al-juhūd wa-l-taṭarruf* (1988), two broadcasts of the programme *al-Sharī’a wa-l-ḥayāt: Ḥijāb* (1998) and *Fiqh al-usra al-muslima fī al-gharb* (1999), and her personal communications with al-Qaraḍāwī in 1998.

²³¹ Roald 2001a: 213.

²³² Roald 2001a: 279–280.

²³³ This includes, among others, Sayyid Quṭb (d. 1966), Muḥammad al-Ghazālī (d. 1996), ‘Abd al-Ḥalīm Abū Shuqqa (d. 1996), Sayyid Ṣābiq (d. 2000) and Zaynab al-Ghazālī (d. 2005).

²³⁴ Roald 2001a: 98–100.

²³⁵ Roald 2001a: 297.

²³⁶ Kugle/Hunt 2012.

“distorted view of religious texts and cultural conventions”.²³⁷ Arguing from a self-proclaimed “progressive Islamic” point of view,²³⁸ they deconstruct the homophobia of neo-traditionalists as a defence strategy of a fragile Muslim masculinity.²³⁹

While Stowasser’s, Roald’s and Kugle and Hunt’s studies are crucial contributions to our understanding of an (admittedly limited) number of al-Qaraḍāwī’s gender-related publications, none of them has explored their strategic significance in the Islamic revival’s biopolitical project. Al-Qaraḍāwī, as I will argue, provides us with a particular insight into the revival’s remaking of gender relations. His contributions to its biopolitical project are located at a particular juncture at which Islamic knowledge (*‘ilm*), activism and modern media meet. In this regard, I hope to not only cover new sources but also – by drawing on Foucault’s, Butler’s and Mahmood’s notions of power, subjectivity and gender – to provide a new analytical perspective on material that has been previously studied.

Before closing this chapter, let me pay my obligatory tribute to the postmodern vogue for academic self-positioning. As I suggested at the beginning of this chapter – alluding to Salvatore’s notion of a transcultural “short-circuit” – al-Qaraḍāwī blurs the boundaries between observers and observed. Evidence that Western scholars play a part in al-Qaraḍāwī’s (self-)presentation comes not only from my own personal experience or that of other academics who have been co-opted by al-Qaraḍāwī.²⁴⁰ The recent emergence of academic establishments and scholarly biographies that lie at the intersection of academic scholarship and Muslim activism point in a similar direction.²⁴¹ The implications of these shifting boundaries are a largely pending subject for academic self-reflection.

²³⁷ Kugle/Hunt 2012: 254.

²³⁸ Kugle/Hunt 2012: 256.

²³⁹ Kugle/Hunt 2012: 254.

²⁴⁰ In 2006, Bettina Gräf was interviewed in an episode of *al-Sharī’a wa-l-ḥayāt* on the occasion of the program’s tenth anniversary (al-Qaraḍāwī 2006d).

²⁴¹ To give just one example: In 2014, a conference on the *maqāṣid al-sharī’a* took place at Paderborn University in Germany, in which academics from European universities, such as Mathias Rohe and Andrea Büchler, as well as scholars and Islamic activists like Yāsir al-‘Awda participated. The latter is a close associate of Ṭāriq Ramaḍān, the co-founder of the Research Centre for Islamic Legislation and Ethics in Doha (*Markaz al-dirāsāt al-tashrī’ al-islāmī wa-l-akhlāq*) and a member of the Union of al-Qaraḍāwī’s Pupils (*Rābiṭat talāmīdh al-Qaraḍāwī*).

3. The Condition of Exile

أستغفر الله سبحانه من كل خطيأ أو تجاوز أو
إعجاب بالنفس...

*I ask God's forgiveness - may He be exalted -
for all offence, exceeding or self-
complacency ...*²⁴²

AL-QARAÐĀWĪ

Delineating the biographical place from which al-Qaraḍāwī speaks and writes requires several disclaimers. Despite al-Qaraḍāwī's high visibility, we have very few independent sources on his life. His portrayal by academic scholarship largely rests on his public self-presentation sketched in his autobiographical recollections (*mudhakkirāt*, sg. *mudhakkira*) that have been published in four weighty volumes between 2002 and 2011.²⁴³ These latter provide us, as Krämer pointedly remarks, "an idealized image" of al-Qaraḍāwī as a preacher, teacher and activist faithfully committed to the Islamic cause.²⁴⁴

On the one hand, in their tonality and their topographical arrangement, al-Qaraḍāwī's memoirs draw on traditional elements of Muslim autobiographical writing, notably on the genre known as *ṭabaqāt*.²⁴⁵ Thus, we find his memoirs replete with portraits

²⁴² al-Qaraḍāwī 2002b: 11.

²⁴³ al-Qaraḍāwī 2002c; 2004b; 2006a; 2011b. Additionally, an anthology dedicated to him on the occasion of his seventieth birthday by his friends and admirers provides us with another important source of information on his public persona (al-Qaraḍāwī 2004b). For academic accounts of al-Qaraḍāwī's biography, see Kursawe 2003; Wenzel-Teuber 2005: 35–47; Krämer 2006; Soage 2008; Gräf/Skovgaard-Petersen 2009; Gräf 2010: 102–122; 2013.

²⁴⁴ Krämer 2006: 184. Like other Muslim scholars and activists of the twentieth century, al-Qaraḍāwī has written his memoirs in the last decades of his life after a quite impressive career. As Roswita Badry highlights, these late biographical writings have little interest in casting doubt on their authors' personalities by exposing their inner selves. Rather, they seek to cultivate and hone their existing images as faithful activists and scholars (Badry 2009: 9).

²⁴⁵ Gräf/Skovgaard-Petersen 2009: 9. Badry argues that a blending of traditional and modern elements in content, form and style is characteristic for the autobiographical writing of Muslim activists and scholars in the twentieth century. In her study, she draws on the life stories of 'Abd al-Ḥalīm Maḥmūd (d. 1978), 'Umar al-Tilmisānī (d. 1986), Muḥammad al-Bahī (d. 1982), 'Abd al-Ḥamīd Kishk (d. 1996), Muḥammad Mutawallī al-Sha'rāwī (d. 1998) and al-Qaraḍāwī's mentor and later colleague, Muḥammad al-Ghazālī (d. 1996). The classic

of other activists and scholars, expressing a constant “awareness of the collective body of Muslim scholarship”.²⁴⁶ At the same time, however, he transcends the genre and its conventions, carefully testing its boundaries and trying to strike a balance between his biographical inscription into the traditional body of Muslim scholarship and more modern sensibilities of autobiographical self-stylization. Both his autobiographical inscription into the tradition and his expansion of it manifest in a number of topoi.

The first topos that he draws on, humility and modesty, forms a central virtue of Islamic scholarship and is a prominent theme in the autobiographical writings of Muslim scholars.²⁴⁷ The theme provides a foil that underscores al-Qaraḍāwī’s outstanding accomplishments as an activist and a scholar, accentuating his self-presentation as, to use Gräf and Skovgaard-Petersen’s expression, “a modest and authentic Muslim who has nevertheless had remarkable success”.²⁴⁸ Al-Qaraḍāwī was born in the humble village of Ṣaḥf al-Turāb in the Egyptian province of Gharbiyya in 1926, “far from all means of modern civilization”.²⁴⁹ Being orphaned at the age of two, he grew up with his mother’s family and his paternal uncle, “an illiterate (*ummi*) farmer”.²⁵⁰ By the age of ten, he knew the Qur’an by heart, which earned him in his village the title of “shaykh”.²⁵¹ His humble origins – as well as his early intellectual achievements – are prominently foregrounded in the title of his memoirs: *Ibn al-qarya wa-l-kuttāb*, “Son of the Village and the Koran School”. This first topos, which portrays al-Qaraḍāwī as a man of the people, apart from the political centres of power, neatly dovetails with the following themes.²⁵²

points of reference on the autobiography in the premodern Arabic literary tradition are Misch 1907 and Rosenthal et al. 1937. For more recent contributions, see Khalidi 1973; Hafsi 1976; Kilpatrick 1991; Makdisi 1993; Reynolds/Brustad 2001; Mojaddedi 2013. For the modern period, see Philipp 1993. Philipp raises the important question of the applicability of our modern notion of “autobiography” to the premodern period (1993: 574). For a theoretical discussion of this and related questions, see Reynolds/Brustad 2001: 15–35.

²⁴⁶ Gräf/Skovgaard-Petersen 2009: 9.

²⁴⁷ Gräf/Skovgaard-Petersen 2009: 9.

²⁴⁸ Gräf/Skovgaard-Petersen 2009: 9.

²⁴⁹ al-Qaraḍāwī 2002b: 15.

²⁵⁰ al-Qaraḍāwī 2002b: 105.

²⁵¹ al-Qaraḍāwī 2002b: 126.

²⁵² As several scholars have highlighted, the public construction of al-Qaraḍāwī’s independence from the ruling elites represents a crucial condition for his popularity among his worldwide audience (Caeiro/al-Saify 2009: 121; Warren 2014). Or as Gudrun Krämer succinctly put it: “To be independent or at least widely

The second topos evokes al-Qaraḍāwī's profound entrenchment in the scholarly traditions of Muslim learning, whose state-affiliated establishments, however, he sharply criticizes. From 1940 onwards, al-Qaraḍāwī visited the Azhar – first its school in Tanta and later, from 1949, the Faculty of Theology (*kulliyyat uṣūl al-dīn*) at its university in Cairo – where he shined as a brilliant student.²⁵³ Although he had admired the Azhar since early childhood, his memoirs are filled with staunch criticism of its shaykhs' disdainful materialism. His vocal demands for reform included, among others, the introduction of English, the modernization of its instruction in Arabic, jurisprudence (*fiqh*) and theology, and the admission of female students to its faculties.²⁵⁴ In later years, his criticism increasingly has targeted the Azhar's subservience and lack of critical independence from the Egyptian state, a position that al-Qaraḍāwī claims for himself.²⁵⁵

The third topos: the decisive encounter with a spiritual guide and his political awakening. In 1940, when al-Qaraḍāwī arrived at the Azhar school in Tanta, he listened to a speech by Ḥasan al-Bannā, the founder of the Muslim Brotherhood – an encounter that he describes as “love at first word” (*al-ḥubb min awwal kalima*).²⁵⁶ Three years later (1942–1943), he joined the Brotherhood, to which he held a life-long allegiance. Eventually, he advanced to become one of the movement's central intellectual authorities.²⁵⁷ In 1976, he was offered

perceived as such, and at the same time be omnipresent on a global scale makes for a powerful mix” (Krämer 2009: x).

²⁵³ al-Qaraḍāwī 2002b: 153–241, 304–500.

²⁵⁴ al-Qaraḍāwī 2002b: 234; 2004a: 20.

²⁵⁵ Skovgaard-Petersen 2009. Drawing on work by Malika Zeghal (1999), Barbara Stowasser (2001: 108) suggests locating al-Qaraḍāwī at the periphery of al-Azhar, along with other shaykhs who had built their popularity away from the control of the state, such as ‘Abd al-Ḥamīd Kishk (d. 1996) and Muḥammad al-Ghazālī (d. 1996): “[E]ducated in the Azharite institution, they did not have important positions as civil servants, but specialized in preaching. Their professional careers had developed mostly outside al-Azhar's administration, in private mosques, classes (at al-Azhar or other universities), and in Islamic associations. Even though they never lost their Azharite status and identity, the public never perceived them as supporting the official ulema at the top of al-Azhar's administration” (Zeghal 1999: 386).

²⁵⁶ al-Qaraḍāwī 2002a: 242. Al-Qaraḍāwī describes this first auditive encounter with al-Bannā further in al-Qaraḍāwī 2002a: 159–161, 242–246.

²⁵⁷ Skovgaard-Petersen 2009: 31–32; Tammam 2009. As Motaz al-Khateeb suggests, al-Qaraḍāwī filled an intellectual vacuum in the Islamic movement that came into existence because of the gap between Sayyid Quṭb's (d. 1966) beliefs and the previous ideas of the movement (al-Khateeb 2009: 94). “Briefly”, as al-Khateeb puts it, “Qaraḍāwī's project counters Quṭb's project” (2009: 94). He argues that al-Qaraḍāwī filled this vacuum

the position of the General Guide (*al-murshid al-‘āmm*) in the organization; an offer which he – repeatedly – declined with the arguments that “God had given him a talent for scholarship, not for politics” and that he wanted to be the general guide of all Muslims, not only of the Muslim Brothers.²⁵⁸

The fourth topos: persecution and imprisonment. In 1948, then after the assassination of Ḥasan al-Bannā in February 1949, and then – following the failed assassination attempt on President Nasser – twice again in 1954, al-Qaraḍāwī was arrested and imprisoned like many other members of the Muslim Brotherhood.²⁵⁹ Although he worked as a teacher and a preacher after his release in June 1956, his efforts to work were seriously hampered by the Egyptian security service.²⁶⁰ Yet he obtained employment in the administration of the Azhar, where he came under the tutelage of the renowned Islamic thinker Muḥammad al-Bahī.²⁶¹ It is from this particular position, located within yet on the margin of the authoritarian secular state, that he engaged in his first activities of editing and writing, including the publication of his earliest – and most influential – book, *al-Ḥalāl wa-l-ḥarām fī al-islām*.²⁶² Applying for a position in one of the Azhar’s institutes abroad, he evaded the surveillance of the Egyptian security service, arriving in Qatar in 1961.²⁶³

The fifth topos: al-Qaraḍāwī’s exile in Qatar and his establishment as a transnational public authority. Like many members of the Muslim Brotherhood and Brotherhood-associated scholars arriving in Qatar during that period, al-Qaraḍāwī became a teacher and public servant in one of Qatar’s religious institutes.²⁶⁴ In a country with no indigenous

“by his abundant production in the fields of Islamic knowledge, Islamic thinking and Islamic movement and secondly by realising the main weak point in Quṭb’s work” (al-Khateeb 2009: 95). Academic studies on Quṭb are abundant. For an analysis of Quṭb’s reception by al-Qaraḍāwī – and a reference to some central studies on the former’s life and work – see Damir-Geilsdorf 2003: 324–333, as well as my remarks below (pp. 118–122).

²⁵⁸ al-Qaraḍāwī 2006a: 381; Skovgaard-Petersen 2009: 37; al-Khateeb 2009: 92.

²⁵⁹ al-Qaraḍāwī 2004a: 109–110.

²⁶⁰ al-Qaraḍāwī 2004a: 229–230.

²⁶¹ For a study of al-Bahī’s biography, see Badry 2009: 11–13. On al-Bahī’s relation to the Azhar, see Brunner 1996. Al-Bahī’s name has alternatively been transliterated as “al-Bahayy” (Brunner 1996) and “al-Bahai” (Lemke 1980).

²⁶² al-Qaraḍāwī 2004a: 280–308.

²⁶³ al-Qaraḍāwī 2004b: 321.

²⁶⁴ al-Qaraḍāwī 2004b: 333. In Doha, al-Qaraḍāwī directed the newly founded College of Higher Religious Studies (*al-ma’had al-dīnī al-thanawī*). His arrival in Qatar has only more recently been put into context – see e.g. Dorsey 2013; Roberts 2014.

clergy of its own, these Brotherhood-associated scholars proved to be instrumental not only to bolster the regime's domestic legitimacy, but also to fend off the hegemonic tendencies of Qatar's Wahhabi neighbour state, Saudi Arabia, on political and religious grounds.²⁶⁵ In the following decades, Qatar's strategic alliance with the Brotherhood became crucial in promoting its foreign policy abroad.²⁶⁶ Al-Qaraḍāwī's prolific publications, which profited from Sadat's *infitāḥ* policy and the concomitant liberalization of Egypt's cultural production in the 1970s, made him one of the most audible voices of this strategic alliance, both in Egypt and beyond.²⁶⁷ In the mid-1990s, al-Qaraḍāwī took decisive advantage of Qatar's policy of media liberalization and its development into the major hub of media-produced reality in the Arabic-speaking world.²⁶⁸ Maintaining the weekly programme *al-Sharī'a wa-l-ḥayāt* on the transnational Arabic satellite television channel Al Jazeera, and being one of the first Muslim scholars to embrace the Internet, he has become one of the most visible scholars and activists of a (counter)public whose transnational discourse not only targets the extremist tendencies of Saudi Salafism, but also Western imperialism and the illiberal authoritarianism of the region's secular regimes.²⁶⁹ It is from this particular strategic juncture that al-Qaraḍāwī – like many other writers and activists of the Islamic revival – seeks to call and “awaken” his audience at the very spot to which the secular state has turned a half-blind eye: the private, the domain of religion and gender.²⁷⁰

²⁶⁵ Dorsey 2013; Haykel 2013; Roberts 2014.

²⁶⁶ On Qatar's foreign policy and its strategic alliance with the Muslim Brotherhood, see Haykel 2013; Kamrava 2013; Khatib 2013: 422–425; Roberts 2014; Ulrichsen 2014.

²⁶⁷ Gräf 2010: 123. The most detailed analysis of Sadat's *infitāḥ* policy and its effects on Egypt's print market is still Gonzalez-Quijano's *Les gens du livre* (1998). For more recent studies that tackle the repercussions of Sadat's “open-door” policy on cultural production and the emergence of a parallel Islamic sector, see Wickham 2002: 95–97; Bayat 2007: 136–137; McLarney 2015: 238–243.

²⁶⁸ Gräf 2010: 119–122; Kamrava 2009; 2011.

²⁶⁹ For studies of al-Qaraḍāwī's engagement with the new media, see Skovgaard-Petersen 2004; Gräf 2007; 2008; 2010; Galal 2009.

²⁷⁰ On Islamists' declaration of the private as “sacred territory” in the context of the Egyptian secular state, see McLarney 2015. To put Saudi Arabia on a par with these secular regimes might seem surprising. As Stephane Lacroix has forcefully argued, however, “[s]ecularism – in its different social and political senses – has [...] been a reality in Saudi Arabia” since the 1950s (Lacroix 2013). Beyond that, the strategic alliance between the Saudi royal family and a quietist brand of Salafi scholars has created two interdependent but clearly delineated spheres of power “with different (and complementary) prerogatives” (Lacroix 2013).

I. The Production of Norms

1. The Subject of Desire

ورغب الله في كل من الرجل والمرأة شهوة
غريزية فطرية قوية تسوقهما إلى التجاذب
واللقاء، حتى تستمر الحياة ويبقى النوع.

God mounted in both man and woman a
strong, natural and instinctive desire that
drives the two of them to mutual attraction
and reunion, so that life continues and the
species remains.²⁷¹

AL-QARAÐĀWĪ

*La vie au monde est une vie à l'éros.*²⁷²

BOUHDIBA

The topic of gender has a long genealogy in al-Qaraḍāwī's writings.²⁷³ In his earliest text, *al-Ḥalāl*, there is already an extensive chapter on the lawful and the prohibited in marriage and family life (*al-ḥalāl wa-l-ḥarām fī al-zawāj wa-ḥayāt al-usra*), in which he expounds his normative thoughts on sexuality, gendered identities and human nature (*fiṭra*) on ontological and theological grounds.²⁷⁴

The chapter opens with a reference to an inner complex of impulses and instincts (*majmū'a min al-gharā'iz wa-l-dawāfi'*) among which the sexual instinct (*al-gharīza al-jinsiyya*) takes a prominent place.²⁷⁵ These instincts have been mounted (*rukkiba*) or planted (*ghurisa*) inside the human being by its creator as part of a larger scheme of divine wisdom (*ḥikma*),

²⁷¹ al-Qaraḍāwī 1996a: 35.

²⁷² Bouhdiba 2003: 11.

²⁷³ While there have been some brief references in a number of articles, few works have studied the topic of gender in al-Qaraḍāwī's media appearances and writings specifically. For an analysis of his stance on homosexuality based on a close analysis of a broadcast of his weekly programme *al-Sharī'a wa-l-ḥayāt* on Al Jazeera, see March 2008; Kugle/Hunt 2012. For studies of his stance on women-related issues, see Roald 2001a; 2001b; Stowasser 2001; 2008. All these texts are discussed above (pp. 40–42).

²⁷⁴ al-Qaraḍāwī 1994a: 141–215.

²⁷⁵ al-Qaraḍāwī 1994a: 141–162. The fundamental significance of *gharīza* in al-Qaraḍāwī's reflections on gender is structurally highlighted by the place that it takes in this text: the discussion of the sphere of instinct (*majāl al-gharīza*) proceeds and opens his ethico-legal reflections on marriage and family life in its different dimensions.

stipulating humankind's succession to God on earth (*istikhlāf*) and humanity's biological reproduction:

خلق الله الإنسان ليستخلفه في الأرض ويستعمره فيها. ولن يتم هذا إلا إذا بقي هذا النوع، واستمرت حياته على الأرض يزرع ويصنع ويبني ويعمر، ويؤدي حق الله عليه، ولكي يتم ذلك ركب الله في الإنسان مجموعة من الغرائز والدوافع النفسية، تسوقه، بسلطانها إلى ما يضمن بقاءه فرداً، وبقائه نوعاً.

God created the human being to make it a successor on earth (*istakhlafa*) and to settle it on her. And this will not be accomplished unless this species (*naw'*) and its life on earth continue, cultivating, manufacturing, building and accomplishing God's right over it. To effect this, God mounted inside the human being a complex of instincts (*gharā'iz*, sg. *gharīza*) and psychological impulses (*dawāfi' nafsīyya*) that drive [the human being] through their power towards that which guarantees its continuity as an individual and its continuity as a kind.²⁷⁶

Al-Qaraḍāwī has continually revisited and expanded this anthropology and its underlying heteronormative assumptions about human nature in a number of later writings in which theological and biological arguments are neatly entwined.²⁷⁷ In *Fatāwā al-mar'a al-muslima*, a text published almost half a century later, he expresses his thoughts on the gendered nature of humans as follows:

هنا حقيقة أخرى يجب أن تذكر إلى جوار حاجة كل من الرجل والمرأة إلى الآخر وهي أن الله سبحانه غرس في فطرة كل واحد من الجنسين قابلية الانجذاب إلى الجنس الآخر، والميل إليه ميلاً شهوياً غريزياً، بسببه يحدث اللقاء والانجاب وبقاء النوع، وعمران الأرض.

[T]here is another truth (*ḥaqīqa*) that has to be remembered – in the vicinity of both man's and woman's natural need (*ḥāja*) for the other – and [this truth] is that God – may He be praised – planted (*gharasa*) in the nature (*fiṭra*) of each of the two sexes the tendency of attraction (*qābiliyya al-injīdhāb*) to the other sex, and the lustful and instinctive desire (*mayl shahwī gharīzī*) for it. Because of [this desire], reunion and natural reproduction, the

²⁷⁶ al-Qaraḍāwī 1994a:141.

²⁷⁷ These naturalizing constructions of gender and sexuality at the intersection of science and politics have been deconstructed by Judith Butler (1999) with respect to Western discourses. Butler, however, fails to provide a historical account of the emergence of this heteronormative gender binarism (Bublitz 2013: 159, n. 42). This account has been partially provided for Europe by Schäffner (1995), among others. However it is still lacking for the Islamic world, although an early contribution has recently been made by Gadelrab (2016).

continuation of the species (*baqā' al-naw'*) and the thriving and prosperity of earth (*'umrān al-arḍ*) take place.²⁷⁸

Al-Qaraḍāwī considers this natural, inner truth (*ḥaqīqa*) – the consuming desire of humans for the other sex – to be a strong and urging force that subjects the individual being to its consuming power, “demanding relief” and the satisfaction of its “ravenous appetite”.²⁷⁹ Invoking scientific insights from physics, biology and other natural sciences, in a later text he draws ironically on the psychoanalyst and critic of religion, Sigmund Freud:

وذلك لما للغريزة الجنسية من قوة التأثير على النفس البشرية، حتى إن بعض مدارس علم النفس (فرويد) ليفسر بها السلوك البشرى كله.

The sexual instinct (*al-gharīza al-jinsiyya*) has such a force and an influence on the human psyche (*nafsiyya bashariyya*) that some schools of psychology (Freud) interpret human behaviour in its entirety through it.²⁸⁰

And, as he adds in a still later text:

فلا يجوز أن ننسى هذه الحقيقة، حين نتحدث عن علاقة الرجل بالمرأة والمرأة بالرجل، ولا يُقبل من بعض الناس أن يدّعوا لأنفسهم أنهم أكبر من أن تؤثر فيهم الشهوات أو تستثار فيهم الغرائز، أو يضحك عليهم الشيطان.

We must not forget this truth (*al-ḥaqīqa*) when we talk about the relation of man to woman and of woman to man. And it is not permissible that some people unduly claim for themselves that they are too great for the desires (*shahawāt*, sg. *shahwa*) to affect them or for the instincts (*gharā'iz*, sg. *gharīza*) to possess (*ista'thara*) them, or the devil laughs at them.²⁸¹

The human being as the subject of its desire can neither deny nor resist its inner truth (*ḥaqīqa*). Rather, this inner force subjects the human being to its voracious power and demands a constant awareness and watchfulness on the part of its subject.

²⁷⁸ al-Qaraḍāwī 2010a: 23.

²⁷⁹ al-Qaraḍāwī 1994a: 141.

²⁸⁰ al-Qaraḍāwī 2008a: 43. Freud mentions his drive theory (*Triebtheorie*) first in *Drei Abhandlungen zur Sexualtheorie*. In later phases of his work, he revises the theory significantly (Freud 1999; Nagera/Freud 1998: 26–41). For a study of Freud's reception in Arabic, see El Shakry 2014. For a comparison between Freud's and al-Ghazālī's (d. 505/1111) sexual theories, see Mernissi 2011: 44–56.

²⁸¹ al-Qaraḍāwī 2010a: 24.

In *al-Ḥalāl*, al-Qaraḍāwī discerns three different positions (*mawāqif*, sg. *mawqif*) on how this natural sexual instinct has been used and cultivated: total libertinism (*ibāḥiyya*), repressive asceticism (*taqashshuf*) and its cultivation within certain boundaries.²⁸² The third position, which is identified with the heavenly religions (*adyān samāwiyya*), sets the sexual impulses free within a particular frame, containing and regulating them “without vile repression nor lunatic liberty”.²⁸³ It is particularly the case that Islam, which al-Qaraḍāwī describes as having a position of justice (*‘adl*) and a middle way (*wasat*) – two notions that later evolve to become programmatic key terms in his writings²⁸⁴ – acknowledges and cultivates human nature (*fiṭra*) according to a set of normative rules and regulations.²⁸⁵ By admitting and even “facilitating the way” to human instinct (*gharīza*) within its lawful frame (*iṭār mashrū‘*), Islam strives to engender a particular kind of subjectivity and conduct of life that leads to progress and the perfection (*kamāl*) of society at large:

وهذا الموقف هو العدل والوسط .. فلولا شرع الزواج ما أدت الغريزة دورها في استمرار بقاء الإنسان .. ولولا
تحريم السفاح وإيجاب اختصاص الرجل بامرأة ما نشأت الأسرة التي تتكون في ظلها العواطف الاجتماعية
الراقية من مودة ورحمة وحنان وحب وإيثار، ولولا الأسرة ما نشأ المجتمع ولا أخذ طريقه إلى الرقي والكمال.

This position is justice (*al-‘adl*) and the middle way (*al-wasat*) ... if marriage had not been enacted (*shurī‘a*), instinct (*gharīza*) would not fulfil its role in the continuity of existence of the human being ... and if fornication (*sifāḥ*) had not been prohibited and jurisdiction did not bind the man to the woman, the family (*usra*) would not have come into existence, in whose shadow the refined social sentiments (*al-‘awāṭif al-ijtimā‘iyya al-rāqiya*) of love, mercy and compassion (*mawadda wa-rahma wa-ḥanān*), of affection (*ḥubb*) and altruism (*īthār*), and if the family was not there, society would not have come into existence and would not have taken its path to progress and perfection.²⁸⁶

²⁸² al-Qaraḍāwī 1960: 141.

²⁸³ al-Qaraḍāwī 1960: 142.

²⁸⁴ For the most comprehensive discussion of *wasatīyya* by al-Qaraḍāwī, see al-Qaraḍāwī 2010b. Gräf (2009a) provides an analysis of the concept’s development in al-Qaraḍāwī’s earlier writings. On the relevance of *wasatīyya* and the related *mīzān* in the thinking of al-Ghazālī (d. 505/1111), and its later reception by Muḥammad ‘Abduh (d. 1322/1905), see Haj 2011: 87, 239.

²⁸⁵ In a broadcast on *fiṭra* that has been aired on his talk show *al-Sharī‘a wa-l-ḥayāt* on Al Jazeera, he uses the terms *mirā‘ah* and *hadhdhaba* to describe Islam’s engagement with the God-created nature (*fiṭra*) of humans (al-Qaraḍāwī 2006b).

²⁸⁶ al-Qaraḍāwī 1994a: 132. He expresses the same idea a few pages later: “Islam [...] has acknowledged the instinct (*gharīza*). Hence, it has facilitated its way in what pertains to the legal. And it has interdicted women’s

In *al-Ḥalāl*, al-Qaraḍāwī outlines the proper use of innate human sexuality within the framework of the Islamic revival's biopolitical project²⁸⁷ in a most extensive chapter that is deliberately situated between the sections on Muslims' private life (*ḥayāt shakhsiyya*) and their public life (*ḥayāt ʿamma*).²⁸⁸ The chapter contains regulations in the field of instinct (*fī majāl al-gharīza*), like the prohibition of fornication (*zinā*), the lustful gaze at the opposite sex and the definition of the intimate parts of the male and the female body (*ʿawra*). They touch upon homosexuality (*liwāt*) and masturbation (*istimnāʾ bi-l-yad*).²⁸⁹ They extend to the rules on marriage, including the legitimate boundaries of seeing the engaged woman (*makhṭūba*), a virgin's (*bikr*) necessary consent to marriage, temporary marriage (*zawāj al-mutʿa*) and the marriage of prostitutes.²⁹⁰ They fix the relations between husband and wife, their sexual relationship, contraception, abortion and divorce. And finally, they pick up on the relationship between parents and children: for example, does a child need its parents' consent when it goes to holy war (*jihād*)?²⁹¹

chastity and self-denial and their segregation, just like it prohibited adultery and its pursuits and vanguards severely. This is the posture of justice (*ʿadl*) and the middle way (*wasat*)” (al-Qaraḍāwī 1994a: 142). In another text, he provides a very similar account: “It pertains to the realism of the Islamic shariʿa that it takes the power of the sexual impulses in the human being into account. Hence, it has not acted deaf towards them, nor has it regarded them with contempt and disgust, as some creeds and faiths have done. Nor is the human being satisfied by being guided by its [sexual] impulses alone, as some philosophies would have it [...]. [The Islamic shariʿa] unites and makes laws for (*sharaʿa*) the satiation of the sexual instincts in a well-tended way, ensuring the survival of the human being, the dignity of the human being and the rise of the human being above the beast” (1977b: 158). Later, he expresses the same idea within the framework of the Islamic revival (*al-ṣaḥwa al-islāmiyya*) (al-Qaraḍāwī 1988b: 89–91).

²⁸⁷ For a clarification of the notion of “biopolitics”, see footnote 32 on p. 12.

²⁸⁸ As Gräf and Skovgaard-Petersen have remarked, the book revises the organization of *fiqh* material thoroughly (2009: 5). The text is divided into four chapters. The first chapter discusses the principles (*mabādīʾ*, sg. *mabdaʿ*) of the legal (*ḥalāl*) and the prohibited (*ḥarām*) in Islam. Then, it moves on to reflect these principles in the personal or private life of the individual Muslim (*al-ḥayāt al-shakhsiyya li-l-muslim*), next in marriage and family life, and finally in his public life (*al-ḥayāt al-ʿamma li-l-muslim*). In the 2013 edition of the book, al-Qaraḍāwī has added a further chapter: “The Legal and the Prohibited in the Actions of the Hearts” (*al-ḥalāl wa-l-ḥarām fī aʿmāl al-qulūb*). For al-Qaraḍāwī's retrospective reflections on the formation, publication and reception of the text, see al-Qaraḍāwī 2004b: 291–305. These shifts in *al-Ḥalāl* are discussed further below.

²⁸⁹ al-Qaraḍāwī 1960: 141–161.

²⁹⁰ al-Qaraḍāwī 1960: 163–180.

²⁹¹ al-Qaraḍāwī 1960: 214–215.

In his later publications and media appearances, al-Qaraḍāwī has continually revisited and gradually expanded these normative reflections and their anthropological underpinnings.²⁹² While some of these publications show an unbroken continuity, others apparently reflect the scientific, technological and political changes of his times.²⁹³ What these written texts and media appearances have in common, however, is that they address an imagined Muslim reader or viewer to whom they ascribe a distinct preoccupation (*shughl*) and a genuine desire (*hirṣ*) to understand (*fahima*) and use (*ṭabbaqa*) his or her sexual instinct (*gharīza jinsiyya*) in the light of Islam and its normative rules (*aḥkām*, sg. *ḥukm*). In other words, they render human sexual desire into the object of an *epistemic* desire – for the understanding (*fahm*) and practice (*taṭbīq*) of sexual desire according to normative knowledge (*ilm*). This epistemic desire is shaped – just like sexuality – by a set of disciplinary traditions that simultaneously order and regulate, restrict and enable the acquisition of this normative knowledge, putting the individual human being (*insān*) into a distinct relationship with his or her interior (*bāṭin*) and exterior (*ẓāhir*), and with the realms of private life (*ḥayāt shakhsiyya*) and public life (*ḥayāt āmma*). Al-Qaraḍāwī outlined – and at the same time reconfigured – the boundaries of these traditions in a programmatic text in the early 1990s. The text was published seven years later as a prologue to his treatise *Taysīr al-fiqh li-l-muslim al-mu‘āṣir fī ḍaw al-qur’ān wa-l-sunna*, “The Facilitation of Jurisprudence for the Contemporary Muslim in the Light of the Qur’an and the Sunna”, to which we now turn.²⁹⁴

²⁹² His book-length publications on gender-related issues include, among others, al-Qaraḍāwī 1979; 1988a; 1994a; 1996a; 1996b; 1999a; 2004a; 2007a; 2007c; 2008a; 2011a. Episodes of his weekly program *al-Sharī‘a wa-l-ḥayāt* in which he has tackled questions related to gender include al-Qaraḍāwī 1996e; 1997c; 1998a; 1998b; 1998c; 1998d; 1999f; 1999h; 2000b; 2003; 2004e; 2004f; 2005b; 2005c; 2006c; 2007; 2008e; 2008f; 2008g; 2008h; al-Qaraḍāwī/al-Qarā Dāghī 1998.

²⁹³ One important shift in al-Qaraḍāwī’s position on women’s rights has been highlighted by Barbara Stowasser (2001). As I discussed earlier (p. 40), this shift signals the emergence of “a new gender paradigm” among the religious establishment (Stowasser 2001: 101), with the focus on women’s rights to political participation rather than the equality of the sexes in terms of personhood or rights to education and work. A second shift concerns al-Qaraḍāwī’s markedly heightened attention to the subject of gender relations during the last three decades. Many of his publications are set against the backdrop of international conferences such the International Conference on Population and Development in Cairo in the summer of 1994, the Fourth World Conference on Women in Beijing in 1995 or the International Conference of Scholars to Proscribe Abuse of the Female Body in Cairo in 2006. Al-Qaraḍāwī’s mediations on Islam and its normative provisions reveal themselves as deeply grounded in a reality (*wāqi‘*) in which the dialogical encounter with the voice of the non-Muslim other takes a central place.

²⁹⁴ al-Qaraḍāwī 1999c.

2. The Subject of Knowledge

العلم لا بد له من قيود وخصوصا العلم المنسوب

إلى الله

To knowledge, bonds are inevitable,
particularly knowledge related to God.²⁹⁵

AL-QARAḌĀWĪ

“If we wanted to summarize Islam in two words”, al-Qaraḍāwī begins his reflections in the prologue to his programmatic treatise *Taysīr al-fiqh*,

فإن الإسلام، إذا أردنا تلخيصه في كلمتين اثنتين، قلنا: هو عقيدة وسلوك أو إيمان وعمل. والعلم المتكفل ببيان العقيدة وتعليمها وشرحها هو (علم التوحيد). والعلم المتكفل ببيان العمل ومعرفة ماله من حكم شرعى هو (علم الفقه). وهناك علم يختص بالأعمال الباطنة، أى ما يتعلق بأعمال القلوب، محبوبة كانت أو مبغوضة، وهو (علم التصوف)، أو (السلوك).

we would say: it is an article of faith (*‘aqīda*) and conduct (*sulūk*) – or faith (*īmān*) and action (*‘amal*). The knowledge (*‘ilm*) that is responsible for the elucidation (*bayān*) of the article of faith (*‘aqīda*), its teachings and its comments is “the science of theology” (*‘ilm al-tawhīd*). And the knowledge that is responsible for the elucidation (*bayān*) of action (*‘amal*) and the perception (*ma’rifa*) of its value in relation to a legal rule (*ḥukm shar’ī*) is “the science of jurisprudence” (*‘ilm al-fiqh*). And there is a knowledge that is devoted to the interior actions (*al-a’māl al-bāṭina*). This is to say: what concerns the actions of the hearts, be they desirable or detested. And this is “the science of mysticism” (*‘ilm al-taṣawwuf*) or “of conduct” (*sulūk*).²⁹⁶

Although al-Qaraḍāwī has written numerous works in each of these different branches of Muslim science, including works on exegesis (*tafsīr*), the articles of faith (*‘aqā’id al-islām*), literature and poetry (*adab wa-shi’r*), theology (*‘ilm al-kalām*) and ethics (*fiqh al-sulūk*), it is *fiqh* that has concerned him most over the past few decades.²⁹⁷ In the text in focus here, he briefly discerns three different conceptions of *fiqh*.

²⁹⁵ al-Qaraḍāwī 2008h.

²⁹⁶ al-Qaraḍāwī 1999c: 5.

²⁹⁷ Tammam 2009: 57. As David Johnston (2014: 41) adds for consideration, however, it was only in the 1990s that al-Qaraḍāwī started to engage with the theoretical principles of *fiqh* (*uṣūl al-fiqh*).

The first conception he expounds refers to the position of Abū Ḥāmid al-Ghazālī (d. 505/1111).²⁹⁸ Al-Ghazālī's understanding of *fiqh* includes, according to al-Qaraḍāwī, all three sciences mentioned above, putting theology, jurisprudence and mysticism “side by side”, although al-Ghazālī granted mysticism a central position.²⁹⁹

²⁹⁸ al-Qaraḍāwī 1999c: 5. The research literature on al-Ghazālī is extensive. For a recent bibliography, see Tamer 2015; Griffel 2015. For biographical accounts, see e.g. Macdonald 1899; Bouyges 1959; Watt 1963; Griffel 2009: 19–53. Little research has been done thus far on the reception of al-Ghazālī by contemporary Muslim thinkers, although a brief overview of this topic has been provided by Moosa (2006: 21–25). Sabah Mahmood has alluded in her study of piety groups in modern-day Cairo to the “frequent invocation of Abu Hamid al-Ghazali’s spiritual exercises and techniques of moral cultivation, found in popular instruction booklets on how to become pious, and often referred to in ordinary conversations within the da‘wa circles” (Mahmood 2011: 137–138). Al-Qaraḍāwī has dedicated a whole treatise to al-Ghazālī (al-Qaraḍāwī 1988b). Elsewhere, he describes him as “my first teacher” (*shaykhī al-awwal*) (2007b: 7). Al-Khateeb, the producer of al-Qaraḍāwī’s weekly programme on Al Jazeera, highlights al-Qaraḍāwī’s early inclination to al-Ghazālī: “In his primary school, Qaraḍāwī gave his first religious lesson about ‘the repentance of sins’ [(*al-tawba*)]”. He delivered his first sermon in his fourth primary year about ‘thanking God’ [(*al-shukr li-llāh*)]” (al-Khateeb 2009: 88; al-Qaraḍāwī 2002c: 174, 178). He ascribes this inclination to the traditional milieu in which al-Qaraḍāwī grew up, to the influence of Ḥasan al-Bannā, whose relations to his followers al-Qaraḍāwī described as “a relation between the shaykh and his disciple (*murīd*) in a spiritual sense” (al-Qaraḍāwī 2002c: 347; al-Khateeb 2009: 89) and to the influence of his shaykh, ‘Abd al-Ḥalīm Maḥmūd (d. 1978), whom al-Qaraḍāwī describes as a “Sufistic man (*rajul mutaṣawwif*) in [his] ideas, emotions and works” (al-Qaraḍāwī 2002c: 413; al-Khateeb 2009: 90). Al-Khateeb suggests, however, that this spiritual inclination took a back seat when al-Qaraḍāwī became (more?) tied to the Muslim Brotherhood: “He modified his method from reading *Iḥyā’ ‘ulūm al-dīn* and preaching about thanking God and repentance, and concentrated on renewing *fiqh* [and on] the notion of ‘comprehensive Islam’ (*al-islām al-shāmīl*)” (al-Khateeb 2009: 90; al-Qaraḍāwī 2002c: 314). On the fact that al-Qaraḍāwī refocused on al-Ghazālī – who has always been present in his writings – and his notion of *fiqh*, see below and my conclusion in particular.

²⁹⁹ al-Qaraḍāwī 1999c: 5. As Ormsby remarks, al-Ghazālī’s contributions to the development of Islamic law have not yet been sufficiently studied (Ormsby 2007: 35). On al-Ghazālī’s notion of *fiqh* in relation to ethics, see, among others, Moosa 2006: 237–260. For a succinct overview of the state of research on relations between Sufism and *fiqh* in a broader perspective, see Belhaj 2013: 81–83. In recent years, the long-assumed historical opposition between Sufism and Islamic law has undergone much revision in academic scholarship, leading van Ess, among others, to state that “there has never been any clear and uniform pattern of enmity between the jurists and the mystics” (1999: 34). Al-Qaraḍāwī has written about Sufism, striving to (re)harmonize it with *fiqh*, a programme that he circumscribes with the classical notion of *fiqh al-sulūk*; see al-Qaraḍāwī 2007c: 5–27. For al-Ghazālī’s reflections on *maṣlaḥa* and *maqāṣid al-sharī‘a*, see chapter III.4 below.

The second, earlier, authority that he discusses is Abū Ḥanīfa (d. 150/767).³⁰⁰ Abū Ḥanīfa included in his understanding of *fiqh* both theology (*tawḥīd*) and the articles of faith (*‘aqā’id*, sg. *‘aqīda*), denoting this subsequently as greater *fiqh* (*al-fiqh al-akbar*).³⁰¹

In addition to these two scholars, al-Qaraḍāwī continues, there exist some older authorities who included in their works on *fiqh* the articles of faith (*‘aqā’id*, sg. *‘aqīda*) and rules of conduct (*‘ādāb*, sg. *‘adab*), such as the Maliki scholar Ibn Abī Zayd al-Qayrawānī (d. 385/996) in his work *al-Risāla*,³⁰² or the Zahiri scholar and polymath Ibn Ḥazm (d. 456/1064) in *al-Muḥallā*.³⁰³ Against the backdrop of these older doctrinal positions, al-Qaraḍāwī formulates the common understanding of *fiqh*:

ولكن الذى اشتهر فى الاصطلاح, واستقر عليه الأمر, هو أفراد علم الفقه بالأفعال الظاهرة للمكلفين, من عبادات أو معاملات, ليعرف به الحلال من الحرام, والصحيح من الفاسد, والمشروع من غير المشروع [...].

³⁰⁰ On Abū Ḥanīfa’s life, see van Ess 1991: 186–191; Madelung 2013; Yanagihashi 2013.

³⁰¹ al-Qaraḍāwī 1999c: 5. Schacht describes the text of the same name, *al-Fiqh al-akbar*, as “a production of Abū Ḥanīfa’s circle” and the “oldest document” of “popular orthodoxy”, having the typical form of “little treatises written for the instruction of the people, children and illiterates, which were meant to be learned by heart and recited” (Schacht 1953: 36–37). The original form and authorship of *al-Fiqh al-akbar* are debated (Rudolph 1997: 61–62; van Ess 1997: 207), although based on al-Qaraḍāwī’s brief reference here, it is unclear if he is aware of these debates. According to Johansen, “[u]ntil the middle of the eighth century of our era, the second of the Muslim *hijra*, the term *fiqh* covers legal, ethical and theological norm constructions, especially creeds. Important early creeds came to be known under the titles of *Fiqh Akbar*, the greater *fiqh* or *Fiqh Absaṭ*, the shorter *fiqh*” (Johansen 1999: 1–2). Quoting Wensinck, he highlights that “*fiqh* in the technical sense of jurisprudence hardly occurs in canonical tradition. Likewise, *faqīh* in the literature has not yet received the special sense of *juris peritus*. It usually means ‘theologian’” (Wensinck 1932: 110–111). It was only at the beginning of the third/ninth century, the time of al-Shāfi‘ī (d. 204/820), “that jurists tend not to include theologians among those whose opinion counts in the consensus of *fiqh* scholars and not to consider them as *fuqahā’*. In the tenth century, this question is definitely settled: a theologian is not a *faqīh* and his opinion does not count in the consensus of *fiqh* scholars” (Johansen 1999: 2). It is not without a certain irony to remember that al-Qaraḍāwī studied Islamic theology (*uṣūl al-dīn*), not *fiqh* (al-Qaraḍāwī 2002b: 403).

³⁰² al-Qayrawānī (n.d.). The *Risāla* represents a “synopsis of Mālikism” and has been the subject of continual study and commentary by Maliki scholars (Idris 1971). The work has been translated into English and into French, with translations by Fagnan (1914), Bercher (1952), Russell (1963) and Kenny (1992). Cornell (1998; 1999) provides an interesting analysis of the epistemological conflict between Sufism and *fiqh* in Marinid Morocco through the case study of al-Qayrawānī.

³⁰³ Ibn Ḥazm 1996. For an overview of the life and work of Ibn Ḥazm, see Adang et al. 2013. A comprehensive bibliography of secondary sources on Ibn Ḥazm is provided by Chipman (2012).

[The usage of the word], however, that became common in linguistic usage, and on which the affair was finally settled, is the particular assignment of jurisprudence (*‘ilm al-fiqh*) to the exterior actions (*af‘āl zāhira*) of those who are obligated to observe the precepts of religion (*mukallaḥūn*, sg. *mukallaḥ*), pertaining to acts of ritual devotion (*ibādāt*) or social intercourse (*mu‘amalāt*), so that through [jurisprudence] the lawful from the prohibited, sound from false, permissible from non-permissible might be known (*li-yu‘raf*) [...].³⁰⁴

Seemingly following the predominant definition of *fiqh*, then, al-Qaraḍāwī exposes jurisprudence as a discipline that enables the subject to enter into an ethically reflected relation to his exterior actions (*af‘āl zāhira*), as the term “recognition” or “distinction” (*‘araḥa*) makes evident in these lines.

A second approach interlaced with this particular understanding of jurisprudence (*‘ilm al-fiqh*). It is by way of this second approach that al-Qaraḍāwī dissociates his position from these older conceptions of *fiqh*. The programmatic key term at this point is *taysīr*:

والآن نصدر هذا الكتاب الذى يعد فاتحة لهذا سلسلة بما يحتوى من أصول ومقدمات تلقى الضوء على منهجنا في هذا الأمر الجلل، وعن شرعية التيسير، ولماذا نتبناه؟ وما المقصود به في مجال الفهم، وفي مجال العمل والتطبيق؟

³⁰⁴ al-Qaraḍāwī 1999c: 6. Baber Johansen dates the rise of this conception again to the time of al-Shāfi‘ī (d. 204/820), i.e. to the third/ninth century: “The intentions and motives of other human beings are accessible only through the observation of their acts and their enunciations. As al-Shāfi‘ī puts it: God alone knows what happens in the mind of the human beings. He alone, therefore, can punish individuals if they pretend outwardly to be believers but remain unbelievers in their innermost convictions. The human beings, the prophet, as well as the rulers and judges are not entitle[d] to take God’s place. Human judges cannot punish people for what they think and believe as long as they do not explicitly enounce their convictions. God will impose his punishment in the hereafter. In this world human justice has to judge according to the appearances of observable acts and enunciations [...]. The *fiqh* has to follow outward experiences” (Johansen 1999: 23–24). Or as Messick puts it: “[T]his basic legal orientation to the outward and manifest, to the *zāhir*, serves to restrain the sort of ‘depth’ analysis that grew up in ‘subjective’ western legal interpretation. In the Islamic tradition there was no legal psychology; the classic expert called to court was the physiognomist, the specialist in reading outward physical signs as indications” (2001: 177). This observation, which had led earlier Orientalist scholarship to denounce Islam as a rigidly legalistic religion, has recently received an important correction from Power’s study on the role of intention (*niyya*) in Muslim legal thought (Powers 2006).

And now, we publish this book that might be regarded as the beginning (*al-fātiḥa*) of this series, encompassing the principles (*uṣūl*, sg. *aṣl*) and premises (*muqaddimāt*, sg. *muqaddima*) that shed light on our programme (*manhaj*) in this important affair, and on the legitimacy of facilitating (*taysīr*) [jurisprudence], [on the reason] why we embrace it, and on its purpose in the domain of understanding (*fahm*), in the domain of action (*ʿamal*) and of practice (*taṭbīq*).³⁰⁵

Al-Qaraḍāwī is aiming, as becomes allusively recognizable here, at the renewal of Muslim jurisprudence (*tajdīd al-fiqh*) at a more fundamental level – a programme in which the facilitation of this discipline (*taysīr al-fiqh*) takes a central place.³⁰⁶ As he points out a few lines below, with this programme al-Qaraḍāwī draws on other important thinkers of modern Islamism, most notably Sayyid Sābiq (d. 1420/2000). In the 1940s, Sābiq composed on behalf of Ḥasan al-Bannā (d. 1368/1949) the popular work *Fiqh al-sunna*, a book in which the project of facilitating Islamic jurisprudence took a central place.³⁰⁷

Al-Qaraḍāwī's intimate connection with modern Islamism and the prominent influence of it on his legal thought are equally reflected in the second programmatic term that he introduces at this point: *shumūl*, the comprehensive validity of Muslim jurisprudence for all spheres of life.³⁰⁸ This comprehensiveness of *fiqh*, al-Qaraḍāwī goes on to say in his treatise, has been lost by Muslims in the course of the centuries of recession (*tarājuʿ*), deviation (*inḥirāf*) and decline (*inḥitāt*). In consequence, he complains, *fiqh* has been pruned and reduced to “questions on menstruation and childbirth, on ritual ablution

³⁰⁵ al-Qaraḍāwī 1999c: 6–7.

³⁰⁶ On *tajdīd al-fiqh*, see al-Qaraḍāwī 1986. For a social and historical contextualization of al-Qaraḍāwī's project of renewing Muslim jurisprudence, see Krämer 2006: 198; Gräf 2010: 157–165. For an overview of modern Muslim debates on *fiqh*, see Krämer 1999: 49–67; Corrado 2010.

³⁰⁷ Sābiq 1999. On Sayyid Sābiq, see Salahi 2005. On al-Qaraḍāwī's relation to Sābiq, see al-Qaraḍāwī 2005; Tammam 2009: 57. On Sābiq's reception in the Cairene mosque movement, see Mahmood 2011: 80–81. Gauvain highlights the ongoing presence of Sābiq's text in the curriculum of Egyptian Salafi institutions; see Gauvain 2012: 35–37, 62, 108, 274, 284.

³⁰⁸ Al-Qaraḍāwī's concept of comprehensiveness is directly shaped by Ḥasan al-Bannā; see al-Qaraḍāwī 1991b; 2002c: 314. Al-Qaraḍāwī equally applies this concept to the shariʿa or to devotional practice (*ʿibāda*) (al-Qaraḍāwī 1970b: 51–53; 1996c: 120–122). On *shumūl al-fiqh*, see additionally al-Qaraḍāwī 1986: 10–11. Dietrich Jung has provided a historical account of the construction of Islam as an all-encompassing system within an emerging global public sphere, in which both Western Orientalists and Islamists have actively taken part (Jung 2011).

and prayer, on breastfeeding, divorce and the like that belong to the personal life (*ḥayāt shakhsiyya*) of the Muslim”.³⁰⁹

The direction of his argument is manifest: al-Qaraḍāwī demands the dissolution of the false boundaries of a historically misconceived and privatized *fiqh* and thus its re-extension beyond the domain of personal life; a domain that he markedly relates to the female body, reproduction and devotional practices.³¹⁰ This extended and renewed *fiqh* also includes, he continues, the domains of politics and good governance, the economy, elections, social justice and postcolonial imperialism. From a secularist point of view, this claim has significant repercussions, as al-Qaraḍāwī’s understanding of *fiqh* is explicitly directed against the privatization of Islamic legislation (*tashrī*) and its restriction to the domains of religion, ritual and gender.³¹¹

At this point, questions arise: How does this allegedly renewed and facilitated discipline of Muslim jurisprudence – as a comprehensive and de-privatized discipline that orders and regulates all aspects of human life – subject the individual to its normative rules? How do these norms, which address the individual’s exterior actions (*afāl zāhira*), govern and subject this individual’s inner human nature (*fiṭra*) – its innate and instinctive desire for the other sex? And how do they seek to co-opt this individual for the biopolitical project and its underlying vision of a pious subject and a perfect society?³¹² Al-Qaraḍāwī’s text provides an interesting, although preliminary, answer to these questions by shifting its focus to two further notions: understanding (*fahm*) and action (*‘amal*) or practice (*taṭbīq*). It is the former of these notions – *fahm* – on which I wish to concentrate.

³⁰⁹ al-Qaraḍāwī 1999c: 12.

³¹⁰ The nexus between gender, the private and the public in Islamist thinking is, however, more complicated than the present passage suggests. I am grateful to Bettina Dennerlein for directing my attention to this point. For an insightful discussion of this relation, see McLarney 2010; McLarney 2015.

³¹¹ This antithetical direction of his argument against a secularist understanding of religion (*dīn*) is most explicit in *Shumūl*, al-Qaraḍāwī’s commentary on the twenty fundamentals (*al-‘uṣūl al-‘ishrīn*) of the right understanding (*fahm*) of Islam formulated by Ḥasan al-Bannā. There, he points out that al-Bannā stipulated the concept of “comprehensiveness” against the historical backdrop of Western imperialism, its apolitical notion of religion, the secular state and the formation of a secular conscience. To affirm the notion of Islam’s comprehensiveness, al-Qaraḍāwī draws extensively on the works of Western Orientalists like Brian Vesey-Fitzgerald, Carlo Alfonso Nallino, Thomas Walker Arnold, Rudolf Strothmann and Duncan Black MacDonald (al-Qaraḍāwī 1991b: 53).

³¹² As highlighted in the introduction (p. 22), the notion of the “subject” that I use here draws on the French philosopher Michel Foucault.

3. The Materiality of Knowledge

العلم الحقيقي هو الذي يتمثل في الفهم والهضم.

*True knowledge is the one which presents itself in understanding and digestion.*³¹³

AL-QARADĀWĪ

Al-Qaradāwī has extensively elaborated on the notion of understanding (*fahm*) in a number of writings belonging to different genres and branches of traditional Islamic scholarship.³¹⁴ The primacy of understanding (*fahm*) as knowledge's right upon its followers (*ḥuqūq al-ʿilm ʿalā aṣḥābiḥi*) is a recurrent theme in these texts. In the treatise discussed in the previous chapter, *Taysīr al-fiqh*, al-Qaradāwī identifies ten points or recommendations on how to establish understanding (*fahm*) within the subject of *fiqh*.³¹⁵ They are:

1. aspiring for simplicity and an intermediate position (*tawakkhkhī al-suhūla wa-l-tawassuṭ*)
2. addressing the contemporary mind (*mukhāṭabat al-ʿaql al-muʿāṣir*)
3. using contemporary information, measures and terms (*istikhdām maʿārif al-ʿaṣr wa-maqādirihī wa-muṣtalaḥātihī*)
4. connecting jurisprudence to reality and dropping that which has no relation to it (*rabṭ al-fiqh bi-l-wāqiʿ wa-ḥadhf mā lā yattaṣil biḥi*)
5. elucidating the wisdom of the legislation (*bayān ḥikmat al-tashrī*)
6. connecting the legal provisions with each other (*rabṭ al-aḥkām baʿḍihā bi-baʿḍ*)
7. reducing the abundance of appendixes and complications (*takhaffuf min kathrat al-zawāʿid wa-l-taʿqīdāt*)
8. utilizing modern texts (*istifāda min kitābāt al-ʿaṣr*)
9. different levels of books (*mustawayāt mukhtalifa min al-kutub*)
10. numbering, tools of elucidation and a precise index (*al-tarqīm wa-wasāʿil al-īdāḥ wa-l-fihrisa al-daḥīqa*)

³¹³ al-Qaradāwī 2008b: 57.

³¹⁴ See, among others, al-Qaradāwī 1991b; 2007b: 121–123; 2008b: 57–59.

³¹⁵ al-Qaradāwī 1999c: 16–23.

Each of these items, which aim at the production of understanding (*fahm*), is further divided into several sub-items. Although many of these items concern the renewal of the discipline from an epistemological angle, what is most striking is the constitutive role that media and language – that is, very *material* aspects – play in the establishment of understanding (*fahm*). Thus, al-Qaraḍāwī demands, under point (1), the aspiration of facilitation and of a moderate position:

أن يكتب بلغة مبسطة, وأسلوب سهل, بعيد عن الإغراب في الألفاظ, والتكلف في العبارات

To write in a simplified language (*lugha mubaṣṣata*) and in a simple style (*uslūb sahl*), far from unusual enunciations (*al-ighrāb fī al-alfāz*) and airs in expressions (*al-takalluf fī al-‘ibārāt*).³¹⁶

And:

تجنب وعورة المصطلحات التي فيها كثير من الغموض لدى القارئ غير المتخصص, و(ترجمتها) إلى عبارات سلسلة مفهومة للشخص العادي

Avoiding the difficulty of terms (*wu‘ūrat al-muṣṭalaḥāt*) in which there is much ambiguity for the non-specialized reader (*al-qārī’ ghayr al-mutakhaṣṣis*), and their “translation” into expressions that are smooth and intelligible (*‘ibārāt salisa mafhūma*) for the ordinary person (*li-l-shakhs al-‘ādī*).³¹⁷

Under point (2), he expands:

مخاطبة العقل المعاصر باللسان الذي يبين له [...] يشمل ذلك مخاطبة العوام بلسان العوام, والخواص بلسان الخواص, فكلٌّ لغته وعقليته.

Addressing the contemporary mind in language that is clear to it. [...] This consists of addressing ordinary people (*‘awāmm*) in the language of the ordinary people, and the elites (*khawāṣṣ*) in the language of the elites. Each one has his language (*lugha*) and his mentality (*‘aqliyya*).³¹⁸

Similarly, he demands with point (3):

³¹⁶ al-Qaraḍāwī 1999c: 16.

³¹⁷ al-Qaraḍāwī 1999c: 16.

³¹⁸ al-Qaraḍāwī 1999c: 16.

استخدام بعض المصطلحات الحديثة إذا كانت تعين على فهم الأحكام الشرعية [...].

The use of some modern terms if they help in understanding the legal provisions [...].³¹⁹

And in regard to the form and shape of the text:

التوسط بين الإيجاز الملغز، الذي عرفت به (المتون) في المذاهب المتبوعة، والتي كان المقصود منها تسهيل الحفظ، ثم احتاجت المتون إلى شروح، والشروح إلى حواشٍ، والحواشٍ أحياناً إلى تقاريرات ... وبين الإطناب الممل، الذي يتوسع في الشرح والتفصيل في غير حاجة إلى ذلك.

An intermediate position (*tawassuṭ*) between the enigmatic brevity for which the “texts” (*mutūn*, sg. *matn*) in the well-followed schools of jurisprudence (*madhāhib*, sg. *madhhab*) were known and whose purpose was to facilitate memorization – with the texts then requiring commentaries (*shurūḥ*, sg. *sharḥ*), and the commentaries super-commentaries (*ḥawāshin*, sg. *ḥāshiyya*), and the super-commentaries at times [requiring additional] remarks – ... and the monotonous length that unnecessarily spreads in the commentary (*sharḥ*) and the minute exposition.³²⁰

When it comes to the book, he writes for point (9):

يحسن أن يكون هناك أكثر من كتاب في الفقه، كل كتاب لمستوى معين من الثقافة والإدراك، يتدرج مع المسلم كيفاً وكماً، ويبدأ بالعبادات، ثم بشؤون الأسرة، ثم بالمعاملات المهمة، ثم بعد ذلك يشمل أبواب الفقه كلها. ويمكن أن يكون على مستويين أو ثلاثة. وقد كان علماؤنا السابقون يراعون هذا في تأليفهم. فنجد الإمام أبا حامد الغزالي (ت 505 هـ) يؤلف في فقه الشافعية: (الخلاصة) ثم (الوجيز) ثم (الوسيط) ثم (البسيط) [...].

It is good that there is more than [a single kind of] book in Islamic jurisprudence – each [kind] for a certain level of cultivation (*thaqāfa*) and intelligence (*idrāk*), which progress with the Muslim [reader] gradually both in quality and quantity: beginning with the ‘*ibādāt*, then with the affairs of the family, then with the significant human relations (*mu‘āmalāt*), and encompassing after that all fields of Islamic jurisprudence. And it is possible that they are on two or three levels. Our earlier scholars used to take this into account in their writing. Hence, we find that Imam Abū Ḥāmid al-Ghazālī (d.505/1111) composed in Shaf‘ī jurisprudence: *The Summary* (*al-khulāṣa*), *The Brief Treatise* (*al-wajīz*), *The Middle-Sized Treatise* (*al-wasīṭ*), *The Plain* (*al-basīṭ*) [...].³²¹

³¹⁹ al-Qaraḍāwī 1999c: 17.

³²⁰ al-Qaraḍāwī 1999c: 16.

³²¹ al-Qaraḍāwī 1999c: 22–23.

What is striking in these paragraphs is the centrality of language and its materiality, which appear as an obstacle and an indispensable prerequisite at the same time: simplifying (*taysīr*) their form and style is crucial for establishing an understanding (*fahm*). These linguistic and material concerns of a modern Islamic activist and Muslim scholar, however, are not unique.

As Charles Hirschkind has observed in his study of present-day Muslim preachers in Cairo, the most visible enunciation of the very material and linguistic foundations of the public they seek to address is central to their discourse.³²² In this regard, he highlights, their notion of an “Islamic” public clearly departs from the concept of a liberal public.³²³ By concealing its own disciplinary, material and social conditions – a certain use of language, its material underpinnings, its gendered nature – the liberal public describes itself as a self-organized autotelic system that exists “by virtue of being addressed”.³²⁴ Through this self-description – and this is crucial – it preserves the image of a space free of power and authority to which everybody has access without any presuppositions, due to their natural, universal reason.³²⁵

Al-Qaraḍāwī’s concept of an Islamic public fundamentally differs from this image of a liberal public that disguises and obfuscates its disciplinary preconditions. The difference lies not only in al-Qaraḍāwī’s demand to de-privatize religion and to extend its normative claims beyond questions on menstruation and devotional practices to the realm of politics; but also in the explicit reflection of the precarious material and intellectual capacities of the public subjectivities he seeks to address.

Al-Qaraḍāwī’s eminent concern for the material and linguistic form of Muslims’ normative discourse has likewise been reflected in a number of his earlier writings and publications, in which he discusses the adequate instruments for the acquisition of “knowledge that each Muslim is obliged to seek (*al-‘ilm al-mafrūḍ ṭalabuhu ‘alayhi*)” and the proper “means for the cultivation of the mind” (*wasā’il al-tathqīf*).³²⁶ Basically, al-Qaraḍāwī

³²² Hirschkind 2006: 106.

³²³ Hirschkind 2006: 106.

³²⁴ Warner 2002: 50.

³²⁵ Hirschkind 2006: 106; Warner 2002: 67–74, 114–115.

³²⁶ al-Qaraḍāwī 2007c: 113–115; 2008c: 54–56. As Khaled El-Rouayheb has highlighted, there has been a long tradition of Arabic works that are partly or entirely devoted to the proper ways of acquiring knowledge since the third/ninth century (2015: 100).

discerns four interrelated ways (*ṭuruq*, sg. *ṭarīq*) in which knowledge can be acquired: attending “sessions of knowledge” (*majālis al-‘ilm*) and listening (*sami‘a*) to the oral speech (*al-mushāfaha*) of the scholar; asking sound questions (*istiftā’*); reading books (*qirā’a*); and consuming new media (*i‘lām*). The appropriateness and effectiveness of these means and instruments, he concedes, varies depending on the intellectual state (*aḥwāl*, sg. *ḥāl*) of the individual – differentiating between “the literate, educated Muslim (*al-muslim al-qāri’ al-muta‘allim*)” and “the illiterate” or “uneducated (*ummī*)”.³²⁷

Although he describes the practices of listening and asking and of consuming new media as powerful technologies for the acquisition of knowledge, it is the third technique that gets al-Qaraḍāwī’s closest attention and that he depicts as the strongest in effect (*ta’tḥīr*): the book and the practice of reading (*qirā’a*, *muṭāla’a*). This valuation is apodictically reflected in a few lines in which he draws the following conclusion from a comparison of the book to other types of media:

وأما بالقراءة والمطالعة لكتب ألفها علماء ثقات [...] وستظل للكلمة المكتوبة قيمتها وأثرها في التوجيه والتنقيف،
وهي الأطول عمراً، الأبقى أثراً.

And what the recitation and reading (*al-qirā’a wa-l-muṭāla’a*) of books concerns that reliable scholars have composed [...]: the written word will keep its value and its effect in the guidance [of the mind] (*tawjīh*) and [its] cultivation (*tathqīf*). It has the longest lifespan and the most lasting effect (*athar*).³²⁸

This effectiveness of the written word, however, crucially depends on a number of disciplinary norms and conditions that regulate its production and consumption alike, thereby simultaneously restricting and enabling the pious reader’s epistemological transformation and his or her formation of a virtuous self through it. It is these normative conditions that we focus on in the following chapter.

³²⁷ al-Qaraḍāwī 2007c: 114.

³²⁸ al-Qaraḍāwī 2007b: 115.

II. The Circulation of Norms

1. Reimagining the Muslim Reader

*Production ... creates the consumer.*³²⁹

KARL MARX

أخبرني ماذا تقرأ ؟ أخبرك : مَنْ أَنْتَ !

Tell me, what do you read?

*And I tell you: who you are!*³³⁰

AL-QARAḌĀWĪ

...القارئ المسلم الحقيقي هو فقير

... the real Muslim reader is poor.

SULTAN WAHBA



Figure 1 – Sultan Wahba, owner of the Wahba Publishing House, sitting in his office on Republic Street underneath the portrait of his father, Wahba Ḥasan Wahba.

It is 12 December 2011, 7 p.m. local time in Cairo. In a narrow, elongated room whose walls are piled with books to the ceiling, I sit opposite Sultan Wahba, owner of the Wahba Publishing House (see Fig. 1). The publishing house is located on Republic Street (shāri‘ al-jumhūriyya) in downtown Cairo,

³²⁹ Marx/Mandel 1992.

³³⁰ al-QaraḌāwī 2007c: 115.

where it reopened its doors in the early 1970s, after several forced evictions, confiscations of its inventory and subsequent prison terms for its former owner, Wahba Ḥasan Wahba, Sultan Wahba's father.³³¹ It is here where al-Qaraḍāwī's first and arguably most influential book al-Ḥalāl was published in 1972:

S. WAHBA: We began to print a few books by the Muslim Brotherhood, [...] ... then a few books about language, ... till we finally made the acquaintance of ... or, to be precise ... once again made the acquaintance of our master (ustādh) ... the honourable Shaykh al-Qaraḍāwī, namely in connection with his book al-Ḥalāl, shortly after it had been published by Dār al-i'tiṣām. And there is a story about the book related to this publisher. [He restrains laughter.] Shaykh al-Qaraḍāwī – may God bless him – submitted to master As'ad al-Sayyid, who belonged to the first guard of the Muslim Brotherhood, the manuscript for publication.³³² [He takes a deep drag of his cigarette.] Al-Sayyid then passed the manuscript to Dār al-i'tiṣām. And Dār al-i'tiṣām took it and passed it in turn to the renowned Shaykh Ḥasan 'Īsā 'Āshūr who added some comments (ta'līqāt, sg. ta'līq) – and then they printed the book like this. [He pauses.] Which infuriated al-Qaraḍāwī. But in this way the book got into print. And when al-Qaraḍāwī received the edition, it was furnished with some responses (rudūd, sg. radd) by Shaykh Ḥasan 'Īsā 'Āshūr. Shaykh al-Qaraḍāwī was furious and wrote for his part some responses (rudūd, sg. radd). And that's how it came about that al-Qaraḍāwī finally got to Cairo, to us, to the Wahba Publishing House, where he came to an understanding with father – he was tied to father by earlier bonds, an old bond ... bonds from prison and bonds from ... [He breaks the sentence off.] So he submitted al-Ḥalāl wa-l-ḥarām fī al-islām to father another time for its publication. And he explained to father that Shaykh Ḥasan 'Āshūr had done this and that and that after that he had done that and this. But father printed neither the response that Shaykh Ḥasan 'Āshūr had written, nor the response by al-Qaraḍāwī. And he told him: ... [He straightens himself up.] “Sir! The writing that Ḥasan 'Āshūr has composed and your response

³³¹ On Wahba Ḥasan Wahba, see Gräf 2013b.

³³² Apart from a reference in al-Qaraḍāwī's autobiography, I was not able to find any further information on this publisher nor the publishing house itself. See al-Qaraḍāwī 2004c: 392–393.

(radd) will increase the book's size. And this is not in the interests of the reader (ṣāliḥ al-qārī')." [He pauses. Then he leans forward in my direction.] This was the aim of Wahba Ḥasan Wahba – may God have mercy upon him – the affordability (mutanāwal) for the Muslim reader. Because he knew that the real Muslim reader is poor (al-qārī al-muslim al-ḥaqīqī huwa faqīr). He scrimps and saves for books from his daily work (yuwaffir min quwwat yaumiḥi al-kitāb). And so, as I recall, seven or five thousand copies of the book were printed.

Al-Qaraḍāwī's literary *oeuvre* presently comprises over 170 titles.³³³ The vast majority of his writing is of the type usually known as *kitāb islāmī*, literally the "Islamic book", an editorial phenomenon that gained currency in the 1970s and that has affirmed its strength ever since.³³⁴ The emergence of the Islamic book is located at the intersection of a number of social, technological and political developments, including secular mass education and increased literacy, the spread of new media technologies and Egypt's economic liberalization in the 1970s.³³⁵ Profiting from Sadat's cultural policy, which supported Islamic trends in order to control the more progressive ones, as Gonzalez-Quijano has highlighted, the amount of Islamic literature printed from 1975 to 1985 made up fifty per cent of the total amount of Islamic literature printed since the rise of the press.³³⁶ In the late 1990s, the Islamic edition had attained an absolutely phenomenal volume of production.³³⁷

³³³ His *oeuvre* is divided into sixteen thematical series, each comprising between four and seventeen titles. Husam Tammam divides his *oeuvre* into four stages. During the 1960s, al-Qaraḍāwī's major objective was to protect the Islamist project from socialist criticism. This objective was reflected in his series *Ḥatmiyyat al-ḥall al-islāmī* (The Inevitability of the Islamic Solution). In the second stage, spreading over the 1970s and the 1980s, it was the Islamic awakening (*al-ṣaḥwa al-islāmiyya*) that came to the fore. The third stage was much influenced by the proliferation of Islamic currents, during which al-Qaraḍāwī dedicated his efforts to establishing a common ground for cooperation between them. The fourth stage was dominated by questions on forming an Islamic state, globalization and interreligious dialogue. See Tammam 2009: 65–66.

³³⁴ Although several studies have appeared on the Islamic book, the central reference remains Gonzalez-Quijano 1998. Gonzalez-Quijano locates the earliest beginnings of this new genre in the 1960s. However, it was only in the 1970s that this new editorial phenomenon gained currency and affirmed its strength (Gonzalez-Quijano 1998: 194).

³³⁵ Eickelman/Piscatori 1996: 39; Gonzalez-Quijano 1998: 194; 2003; McLarney 2015: 16.

³³⁶ Gonzalez-Quijano 1998: 193.

³³⁷ Gonzalez-Quijano 1998: 193.

Although the Islamic book (*al-kitāb al-islāmī*) draws on older forms and traditions of Muslim writing and modes of arguments, its appearance points to a new set of political, social and technological conditions within which “older commitments and themes have been given a new direction, shape, and form”.³³⁸ In its outer appearance, the Islamic book clearly differs from the *kitāb al-turāth* – the book of the cultural heritage.³³⁹ Its material form, its visual vocabulary and its relatively low price apparently address a wider audience that transgresses the exclusive circle of Muslim scholarship at large.³⁴⁰ This shift in the imagined readership appears likewise to be reflected in al-Qaraḍāwī’s autobiography, where he relates Sultan Wahba’s story of the publication of *al-Ḥalāl* from his own point of view:

وقد ظهرت بعض الردود على الكتاب، منها: [...] تعليق «دار الاعتصام» التي طبعت الكتاب سنة 1972م وعقبت عليه بالمخالفة في نقاط عدة. وكان الأخ أسعد السيد رحمه الله طلب مني أن يطبع الكتاب؛ لأنه ينوي إنشاء دار نشر إسلامية جديدة، يكون الكتاب باكورتها، ولما لم يكن له دار بعد، أعطى الكتاب لدار الاعتصام، فتصرف الإخوة القائمون على الدار هذا التصرف، وردوا على الكتاب الذي نشره في قلب الكتاب، ودون علم مؤلفه أو إذنه.

There appeared some responses (*rudūd*, sg. *radd*) to the book, and among them [...] the comment (*ta’līq*) by [the publishing house] Dār al-i’tiṣām that printed the book in 1972 CE which contradicted it on numerous points. Brother As’ad al-Sayyid, may God have mercy upon him, had asked me [for permission] to print the book, because he intended to establish a new Islamic publishing house of which the book should be the first fruit. Since he did not yet have a publishing house, he gave the book to Dār al-i’tiṣām. The brothers in charge of the publishing house proceeded arbitrarily with a right of disposal, responding (*raddū*) to the book and publishing [those responses] inside the book (*fī qalb al-kitāb*) without its author’s knowledge or his approval.³⁴¹

At this point, however, al-Qaraḍāwī presents the events in a slightly different frame, which attenuates the economic reasoning provided by Sultan Wahba:

³³⁸ Mahmood 2011: 82.

³³⁹ Gonzalez-Quijano 1998.

³⁴⁰ In *Taysīr*, al-Qaraḍāwī uses the term *jumhūr al-muslimīn* to describe his audience; al-Qaraḍāwī 1999c: 5. For a reflection on this shift in Islamic literature’s imaginary readership in Bangladesh, see Huq 2003: 139.

³⁴¹ al-Qaraḍāwī 2004a: 302–303.

والحقيقة أنني لم أعقب على هذه الردود؛ لأنها ركزت على الأمور الخلافية التي سيظل الناس يختلفون فيها إلى ما شاء الله، وقد ملت فيها إلى جانب التيسير وفق منهجي الذي اخترته لنفسي، واطمأننت إلى صوابه، وهو: التيسير في الفتوى والتبشير في الدعوة [...] ولأن منهجي العام: ألا أضيع الوقت في الرد، ورد الرد، ولا سيما في القضايا التي لا ينتهي الخلاف فيها [...] والأعمار أقصر وأنفس من أن ننفقها في جدال ليس له ثمرة عملية في النهاية.

And the truth is that I did not follow up on ('*aqqaba*) these responses (*rudūd*, sg. *radd*), because they focussed on controversial affairs (*umūr khilāfiyya*) on which people will keep disagreeing (*ikhtalafa*) for as long as God intends. And I tended [in these affairs] to the side of facilitation (*taysīr*) according to the programme (*manhajī*) that I had chosen for myself, and of whose rightness I was certain: facilitating (*taysīr*) the formal legal opinion (*fatwā*) and announcing the glad tidings (*tabshīr*) in the call (*da'wa*) [...] and because my general programme (*manhajī al-āmm*) is that I don't waste time on responding (*radd*), and on responding to the response (*radd al-radd*), and particularly in affairs on which the dispute (*khilāfa*) will never end [...]. Lives are too short and too precious to waste them in a debate without a practical result in the end.³⁴²

The economic rationale allegedly foregrounded by Sultan Wahba's father for excluding the scholarly debate in favour of its poor Muslim reader is hence overwritten in al-Qaraḍāwī's autobiographical retrospective. His programmatic and pragmatic rationale justifies the absence of a scholarly disagreement (*ikhtilāf*) in terms of it having no ultimate solution and thus being pointless. The book's true objective is to mediate a clearly defined programme (*manhaj*) to its imagined readership, to whose sensibilities and intellectual capacities a particular argumentative form and the material shape of the text correspond.

Despite al-Qaraḍāwī's early embracement of new media, he perceives the authorized Islamic book (*kitāb islāmī mu'tamad*) and the written word (*kalima maktūba*) as the primary means for acquiring an understanding (*fahm*) of Islam's religious teachings, and as the most effective instrument for the epistemological cultivation of a pious Muslim self.³⁴³ At the same time, however, he considers the book to be the most sensitive and even dangerous way of mediating. Thus he blends older reservations of Islamic scholarship against writing and reading with contemporary critiques of the print market and modern consumer culture.

Al-Qaraḍāwī reflections take their point of departure from the image of a Muslim reader who is distinguished by his capacity to learn from books as means of an

³⁴² al-Qaraḍāwī 2004a: 303.

³⁴³ al-Qaraḍāwī 2007b: 115. See above, p. 66.

epistemological self-cultivation. His practice of reading is regulated by the need to read suitable kinds of books:

فكل مسلم أدرك حظاً من العلم، ويحسن الفهم من الكتب، يجب عليه أن يقرأ منها ما يلائمه، وأن يتتقف، وأن يعي.

Each Muslim who attains a portion of knowledge, and masters learning from books (*wa-yuḥsinu l-fahm min al-kutub*) is required to read (*yaqra*) [those books] that suit him (*yulā'im*) and to refine his knowledge (*yataḥaqqaf*) and to remember [them] by heart (*ya'ī*).³⁴⁴

This idea of suitable books is elucidated in the following lines, in which al-Qaraḍāwī draws on source-critical categories of orthodox Muslim scholarship, presenting the reception of al-Ghazālī's (d. 505/1111) *Iḥyā' 'ulūm al-dīn* as an exemplary case in point:

ولكن هنا بعض الخطر: فهناك كتب محشوة بالإسرائيليات، وهناك كتب لا تخلو من أحاديث موضوعة أو منكورة، وهناك كتب فيها اتجاهات غير سليمة [...] وقد يكون نافعا ومقبولا، إلا في مواضع معينة منه، فيقرأ مع الحذر، مثل كتاب "الإحياء" للإمام الغزالي فهو كتاب نافع، وموسوعة جامعة، ولكن فيه مواضع تُنقَى وتُحذَر، وينبغي ردها إلى القرآن والسنة، وما كان عليه سلف الأمة من الصحابة ومن تبعهم بإحسان، كما أن فيه أحاديث واهية أو موضوعة أو لا أصل لها، فلا يجوز أن يعتمد عليها.

But here are some dangers: there are books filled with narratives from the Bible (*isrā'īliyyāt*). And there are books with fabricated or denounced traditions (*aḥādīth mawḍū'a aw-munkara*). And there are books with impaired tendencies (*ittijāhāt ghayr salīma*). [...] And [there are books that are] useful and accepted with the exception of some particular topics [that the reader has to] read with caution (*ḥidhr*), like the book *al-Iḥyā'* by Imam al-Ghazālī. This is a useful book, and a most comprehensive work (*mawsū'a jāmi'a*). But therein are passages to be beware of and to be on one's guard from, which have to be traced back to the Qur'an, the sunna and the exemplary deeds of the pious forefathers of the *umma*, the companions and their successors. Just as there are feeble, fabricated or traditions without basis therein. Hence it is not permitted that one relies on them.³⁴⁵

A similar criticism is formulated in *al-Ḥayāt al-rabbāniyya wa-l-'ilm*, where al-Qaraḍāwī particularly refers to the category of old books (*kutub qadīma*).³⁴⁶ Here, the success of

³⁴⁴ al-Qaraḍāwī 2008c: 54.

³⁴⁵ al-Qaraḍāwī 2008c: 55.

³⁴⁶ al-Qaraḍāwī 2007c: 115.

reading as a technique of an epistemological self-cultivation is more explicitly grounded in a proper relationship between the quality of the text and the intellectual capacity of the reader:

وقراءة الكتب القديمة لا يحسنها كل أحد، فهي تحتاج إلى أدوات ومفاتيح خاصة لفهمها لما فيها من مصطلحات، وقضايا علمية متصلة بعلوم مختلفة، لغوية وشرعية ومنطقية، يستغلّق فهمها على كثير من الناس

Not everybody masters the reading of old books. It requires particular instruments (*adawāt*, sg. *adāh*) and keys (*mafātīḥ*, sg. *miftāḥ*) for understanding them, due to the terms (*muṣṭalaḥāt*, sg. *muṣṭalaḥa*) and scientific topics they contain, which are linked to various, linguistic, juridical and logical disciplines whose understanding (*fahm*) is obscure (*yastaghliq*) to many people.³⁴⁷

With these two more traditional kinds of reservations on reading, al-Qaraḍāwī blends a third kind of critique. This third kind is related to the institution of the modern print market and modern consumer culture. He invokes the sheer number of books that are published every day, confronting the Muslim reader with the necessity of making a reflective choice of consumption:

وينبغي للمسلم أن يتخير الكتب التي يقرأها عامة، والتي يتعلم منها دينه خاصة، فإن المطابع تُخرج كل يوم السمين والغث، والجديد والرث، فكم فيها من أصيل نافع، وكم فيها من دخيل ضار، وعلى المرء أن يأخذ ما صفا ويدع ما كدر.

It behoves the Muslim to select (*takhayyara*) [those] books that he reads in general and those that he learns his religion (*dīn*) from in particular. The printing houses release every day the thick and the thin, the new and the worn. How much in them is of pure origin (*aṣīl*) that is useful, and how much in them is not genuine (*dakhīl*) and harmful. And it is upon one[self] to take what is pure and to leave aside what is cloudy.³⁴⁸

In these lines, al-Qaraḍāwī addresses the Muslim reader as a conscious consumer of the modern print market, who is obliged to make a reflective choice about which books he or she reads. One's pattern of consumption seems to stand in a revealing relation to one's

³⁴⁷ al-Qaraḍāwī 2007c: 115.

³⁴⁸ al-Qaraḍāwī 2007c: 115.

identity, as he concludes his remarks: “And one of the wise men said: Tell me what you read. And I tell you who you are!”³⁴⁹

A similar image of the Muslim reader as a consumer is found in *al-Fatwā bayna l-indībāt wa-l-tasayyub*. Here, al-Qaraḍāwī merges the image of the contemporary reader with a comprehensive critique of the ethics and temporal sensibilities of modern consumer culture:

ومن آفات هذا العصر، أن الناس لا يريدون أن يقرأوا الكتب النافعة، ولا يصبرون على قراءة الكتب الأصلية، حتى إن بعض الأدباء يسمي هذا العصر، عصر (السندوتش)، يعني أن الناس ما عادوا يطيقون أن يجلسوا إلى مائدة حافلة لمدة ساعة من الزمن، يأكلون في أناة، وينصرفون على مهل، إنما يريد أكثرهم (سندوتشاً) سريعاً، يلتهمه وهو ماش وراكب. فذلك الناحية الثقافية أيضاً، يريد القارئ أن يقرأ رسائل صغيرة، ونشرات سريعة. أما أن يقرأ كتاباً في التفسير كابن كثير، أو كتاباً معتمداً في الحديث كالبخاري أو شرحه، فليس عند كثير من الناس من الطاقة والجلد على ذلك في عصر السرعة.

[One] of the displeasures of this age is that people don't want to read useful books. They don't have the patience (*lā yaṣbirūn*) to read original books (*al-kutub al-aṣīla*) so that some intellectuals (*al-udabā'*, sg. *al-adīb*) call this age the age of the “sandwich”. By this they mean that people are not accustomed to sitting at the table for a full hour, eating patiently and leaving slowly. Rather, the majority of them want a fast “sandwich”, swallowing it up while walking or driving. And likewise, [in] the cultural sphere: the reader wants to read short treatises (*rasā'il ṣaḡhīra*) and swift publications. Yet, to read a book on a commentary of the Qur'an (*tafsīr*) like [the one by] Ibn Kathīr, or an authorized book (*kitāb mu'tamad*) on the tradition (*al-ḥadīth*) like [the one by] al-Bukhārī or his commentary – there are not many people who have the ability and the endurance for that in this time of haste (*'aṣr al-sur'a*).³⁵⁰

These remarks are interesting because they complement al-Qaraḍāwī's earlier textual criticism based on classical disciplines of Muslim scholarship with a straightforward critique of modern consumer culture.

There is, however, another and, as the texts unambiguously make plain, an indispensable resource that regulates, restricts and enables the success of this ethical cultivation through reading: the mediation by the scholar. This scholarly mediation assumes, according to al-Qaraḍāwī, two different but interrelated forms: an epistemological

³⁴⁹ al-Qaraḍāwī 2007c: 115.

³⁵⁰ al-Qaraḍāwī 2008c: 55.

one and an oral/aural–physical one. The first invokes the book as an object of scholarly dismembering and source-critical restoration:

ولا بد من تلقيها على شيوخها، ليفكوا رموزها، ويردوها إلى أصولها

It is thus necessary to receive [old books] from the masters of the disciplines so that they [can] decipher (*fakka*) their symbols (*rumūz*, sg. *ramz*) and attribute them to their sources (*uṣūl*, sg. *aṣl*).³⁵¹

In *al-Fatwā bayna al-inḍibāt wa-l-tasayyub*, al-Qaraḍāwī extends this epistemological mediation from old books to any kind of book:

ولهذا يجب ألا يقرأ المسلم من الكتب إلا ما هو موثق ومعتمد من عالم موثوق به في علمه، وفي سلامة اتجاهه، يعرف المسلم أن هذا الكتاب مقبول أو مرفوض، نافع أو ضار.

And thus it is necessary that the Muslim does not read any books other than those that are attested and authorized (*muwaththaq wa-mu'tamad*) by a scholar who is reliable in his knowledge (*'ālim mawthūq bi-hī fī 'ilmihī*) and in the soundness of his orientation (*fī salāmat ittijāhihī*), letting the Muslim [reader] realize whether this book is acceptable or to be rejected, useful or harmful.³⁵²

The acquisition of knowledge by reading hence appears to be inextricably bound to the epistemological mediation and intervention of the reliable scholar: his decipherment and source-critical restoration of any “symbols” in the text, and his attestation and accreditation of the usefulness and acceptability of the text.

This epistemological mediation is complemented by a second, related form: the bodily companionship and corporal co-presence of the scholar. In his subsequent warning against the acquisition of knowledge from “those who adhere to pages alone” (*ṣuḥufiyyūn*, sg. *ṣuḥufī*), al-Qaraḍāwī clearly draws on older lines of argumentation against the private and unattended reading of religious texts, which lacks the direct companionship and immediate presence of the scholar.³⁵³ His critique of those who read books “without living in the schools of knowledge (*madāris al-'ilm*), together with its adherents, mingling with its

³⁵¹ al-Qaraḍāwī 2007c: 115.

³⁵² al-Qaraḍāwī 2008c: 55.

³⁵³ Messick 1997.

masters and disciples”³⁵⁴ builds on the recitation of the Qur’an as the exemplary paradigm for the embodied mediation of the written word:

القرآن لا يؤخذ ممن تعلمه من الصحف وحده، ولم يتلقه على أيدي شيوخه القراء المتقنين، وكذلك العلم.

The Qur’an is not to be taken from the one who has learned it from its written copy (*muṣḥaf*) alone and who has not obtained it from the hands of its (or: his) shaykhs, the perfect readers (*al-qurrā’ al-mutqanūn*) – and likewise knowledge (*‘ilm*).³⁵⁵

These epistemological and corporal forms of scholarly mediation that regulate the practice of reading are subsequently extended to the reading of those “short treatises (*rasā’il ṣaghīra*) and swift publications (*nasharāt sarī’a*)” that correspond to modern consumers’ sensibilities in the age of the “sandwich”:

فإن كان لابد من قراءة الكتب الملخصة، فليقرأ الجيد منها بإشراف عالم ثقة بتوجيهه ...

If reading abridged books (*al-kutub al-mulakhkhaṣa*) is inevitable, then the faultless (*al-jayyid*) parts of them are to be read under the auspices of a scholar who is trustworthy in his guidance (*bi-ishrāf ‘ālim thiqa bi-tawjīhihi*)...³⁵⁶

What conclusions may we draw from al-Qaraḍāwī’s remarks on reading? Although al-Qaraḍāwī describes the book and the practice of reading as a central technique for the cultivation (*tathqīf*) and refinement (*tathaqquf*) of a pious subject, his texts reveal that the success of this formation depends on a number of critical conditions, regulations and interventions: the reader’s intellectual capacity, a certain set of sensibilities informed and corresponding to the modern print market and modern consumer culture, a particular quality of orthodox text criticism, and not least the vital mediation by the scholar – as a translator, compiler, supervisor and a corporal companion whose bodily presence is indispensable for reading as a technique of cultivating a pious self. The imagined reader and the practice of reading hence remain inextricably bound to the aural and oral sense as the privileged path for the transmission of knowledge and the accomplishment of the religious duty (*fard*) to seek knowledge (*ṭalab al-‘ilm*). The book and the practice of reading

³⁵⁴ al-Qaraḍāwī 2007b: 115.

³⁵⁵ al-Qaraḍāwī 2007b: 116.

³⁵⁶ al-Qaraḍāwī 2008c: 55–56.

as critical resources for the ethical and epistemological cultivation (*tathqīf*) of a pious Muslim subject are informed both by the classical imaginary of varying intellectual capacities, (un)sound traditions (*aḥādīth*, sg. *ḥadīth*) and (un)verified authenticity, and also by the modern imaginary of the commodity market that obliges the consuming subject to make a well-considered choice. It is at the intersection of these overlapping norms and reservations that al-Qaraḍāwī locates the authorized Islamic book (*kitāb islāmī mu‘tamad*) and the practice of reading as critical resources for the cultivation of a pious Muslim subject.

In the following chapter, we will investigate how these normative principles on the Islamic book translate into practice. Given the vast number of al-Qaraḍāwī’s publications, we will confine our analysis to his first text, *al-Ḥalāl*, generally considered his most prominent. Drawing on our earlier insights, we will complement this analysis with two further questions: (1) How does al-Qaraḍāwī’s project of a renewed and facilitated discipline of Muslim jurisprudence, with its particular emphasis on understanding (*fahm*) and comprehensiveness (*shumūl*), manifest in *al-Ḥalāl*? And (2) how does *fiqh*, being assigned to the realm of the individual’s exterior actions (*af‘āl ḡāhira*), engage, regulate and subject the individual’s natural and inner truth: its innate desire for the other sex?

2. Revisiting the Subject of Desire

It appears that *al-Ḥalāl* anticipates many of the programmatic principles that al-Qaraḍāwī would formulate in his later theoretical works: *fiqh*'s assignment to its subject's (*mukallaf*) exterior actions (*afāl zāhira*);³⁵⁷ its claim to comprehensiveness (*shumūl*);³⁵⁸ the primacy of the subject's rational understanding (*fahm*);³⁵⁹ and the particular material and linguistic form that the facilitation (*taysīr*) of this understanding demands. Two of these principles – the primacy of *fahm* and *fiqh*'s claim to comprehensiveness – as I will argue, viscerally manifest in the book's overall architecture, and mark a decisive rupture with the established traditions of Muslim normative writing.

As a number of academic scholars have argued, *fiqh* writings follow a distinct and supposedly universal pattern that first became established in the second/eighth century, and that has been claimed to have remained unchanged ever since.³⁶⁰ In this structure, acts of devotion and religious observances (*ʿibādāt*) invariably precede non-ritual and social ones (*muʿāmalāt*).³⁶¹ This longstanding tradition that “no jurist ever violated” was, Hallaq argues, more than “an emblem of symbolic importance and priority” and “by no means haphazard or interchangeable”.³⁶² Rather, it was “carefully structured” to yield a “subliminal, programmatic, and deeply psychological” function designed to cultivate in the shariʿa's subject “the foundations for achieving willing obedience to the law”:³⁶³

Indeed, no law under the purview of *muʿāmalāt* can be properly understood (especially as functioning within a social site) without the *ʿibādāt* and the technologies of the self they had produced, which is to say that no “law proper” could be complete or deemed *proper* without the underlying substrate of the *ʿibādāt*. In both doctrine and practice, the *ʿibādāt partook in*

³⁵⁷ al-Qaraḍāwī 1999c: 6.

³⁵⁸ al-Qaraḍāwī 1999c: 12.

³⁵⁹ See, among other works, al-Qaraḍāwī 1991b; 2007b: 121–123; 2008b: 57–59.

³⁶⁰ Heffening 1935; Johansen 1999: 35; Reinhart 2014: 67–69; Hallaq 2014: 83–85.

³⁶¹ Or, as Hallaq emphatically puts it: “It bears repeating that whatever the arrangement of these chapters/sections/‘books,’ the materials dedicated to the elaboration of so-called rituals are always prior, having universal precedence over all else” (Hallaq 2014: 84–85). On the problematic of translating *ʿibādāt*, see e.g. Reinhart 2014.

³⁶² Hallaq 2014: 83.

³⁶³ Hallaq 2014: 84–85.

constituting the *mu'āmalāt*. And it is for this reason that they were aptly labelled the “pillars of religion”, the moral foundations upon which the *Sharī'a* is supposed to rest.³⁶⁴

Al-Qaraḍāwī's *al-Ḥalāl* clearly deviates from this paradigmatic, and presumed universal structure.³⁶⁵ The book is divided into four chapters (*abwāb*, sg. *bāb*), each chapter being meticulously itemized in the comprehensive index (*fihris*) at the end of the book.³⁶⁶ Conspicuously, the book opens with a brief definition (*ta'rīf*) of the lawful (*ḥalāl*), the prohibited (*ḥarām*) and the detestable (*makrūh*) in Islam.³⁶⁷ In the following first chapter, al-Qaraḍāwī proceeds to expound eleven principles that govern the lawful and the prohibited in Islam (*mabādī' al-islām fī al-ḥalāl wa-l-ḥarām*).³⁶⁸ The emergence of these principles, many of which he elaborates in his later writings, is thereby set off against the negative backdrop of the pre-Islamic *jāhiliyya*.³⁶⁹ Following that, Islamic legislation (*tashrī'*) is put into an evolutionary framework in which it subsequently reforms (*iṣlāḥ*) and transcends the aberration and corruption (*al-ḍalāl wa-l-taḥrīf*) of merciless Hindu Brahmanism (*al-barhamiyya al-hindiyya al-qāssiyya*), fierce Christian monasticism (*al-rahbāniyya al-masīḥiyya al-ātiya*) and other schools that rest on the chastisement of the body (*ta'dhīb al-jasad*) on the one hand; and the absolute libertinism (*al-ibāḥa al-muṭlaqa*) and the violation of innate human nature (*fiṭra*) by Persian Mazdaism on the other.³⁷⁰ By providing a number of well-measured principles, al-Qaraḍāwī ends his narrative, Islam established a just balance (*al-mawāzīn al-qisṭ*) and engendered a moderate *umma* – a figure based on the Qur'anic notion of being {a community of the middle way (*ummataṉ wasaṭan*)} (Q 2: 143). This idea, which re-emerges in many of al-Qaraḍāwī's later publications, has become one of his leitmotifs in the following decades.³⁷¹ The crucial point, however, is that the succinct definitions (*ta'rīfāt*, sg. *ta'rīf*) and clear enunciation of the evolutionary principles (*mabādī'*, sg. *mabda'*) that govern

³⁶⁴ Hallaq 2014: 137–138, emphasis in the original. Hallaq criticizes Western academic scholarship for drawing a discursive and conceptual segregation between the *ibādāt* and the *mu'āmalāt*, believing that in doing so it has largely missed and overlooked the constitutive role of “ritual” for the “strictly legal” (Hallaq 2014).

³⁶⁵ This departure has already been noted (but not analysed) by Gräf (2010: 125–129) and Gräf and Skovgaard-Petersen (2009: 5).

³⁶⁶ al-Qaraḍāwī 1994a: 319–324.

³⁶⁷ al-Qaraḍāwī 1994a: 17.

³⁶⁸ al-Qaraḍāwī 1994a: 19–40.

³⁶⁹ al-Qaraḍāwī 1994a: 21.

³⁷⁰ al-Qaraḍāwī 1994a: 21.

³⁷¹ al-Qaraḍāwī 1994a: 22.

the lawful and the prohibited in Islam structurally – and unprecedentedly – replace the *‘ibādāt* as “the foundations for achieving willing obedience in Sharī‘a’s subject”.³⁷² Or, to put it in a nutshell: rational clarification replaces embodied ritual.

On structural grounds, *al-Ḥalāl* exposes a particular architecture that reveals a significant departure from the one of older *fiqh* writings. These older *fiqh* writings, as Hallaq outlines,

depending on the school and the jurist, began their second installment of exposition with either the contractual and pecuniary subjects (such as sales, agency, pledge, partnerships, rent, etc.) or family law (marriage, various forms of divorce, custody, maintenance, inheritance, etc.). Usually following these rules are sections dealing with offences against life and limb, some regulated by the Qur’ān (*ḥudūd*), others by principles of retaliation or monetary compensation (*qisās*). The last sections of legal works usually treat adjudication and rules of evidence and procedure and often include an exposition of *jihād*, although in some schools or juristic writings, this latter section appears earlier in the treatise.³⁷³

Again, al-Qaraḍāwī deviates from these older arrangements. Following his introductory definition of the principles that govern the lawful and the prohibited in Islam (*mabādī’ al-islām fī sha’n al-ḥalāl wa-l-ḥarām*) in the first chapter, the rest of *al-Ḥalāl* is divided into three chapters (*abwāb*, sg. *bāb*).³⁷⁴ The second chapter outlines the lawful and the prohibited in the sphere of a Muslim’s private life (*ḥayāt shakhsiyya*).³⁷⁵ This private sphere comprises food and drink (*aṭ‘ima wa-ashriba*), the slaughtering of animals (*dhakāh*), hunting (*ṣayd*), wine (*khamr*), drugs (*mukhaddirāt*), clothing and adornment (*malbas wa-zīna*), the household (*bayt*) and earnings and professions (*kasb wa-iḥtirāf*).³⁷⁶ The fourth chapter is on Muslim public life (*ḥayāh ‘amma*).³⁷⁷ It tackles the tenets of faith and the submission to authority (*al-mu‘taqadāt wa-l-taqlīd*), social intercourse (*mu‘āmalāt*), entertainment and recreation (*lahw wa-tarḥīl*), social relations (*‘alāqāt ijtimā‘iyya*) and the Muslim’s relationships with non-Muslims (*‘alāqat al-muslim bi-ghayr al-muslimīn*).³⁷⁸ The third chapter on the lawful and the

³⁷² Hallaq 2014: 84–85.

³⁷³ Hallaq 2014: 117.

³⁷⁴ al-Qaraḍāwī 1994a: 219–224.

³⁷⁵ al-Qaraḍāwī 1994a: 41–138.

³⁷⁶ al-Qaraḍāwī 1994a: 43–148.

³⁷⁷ al-Qaraḍāwī 1994a: 218–312.

³⁷⁸ al-Qaraḍāwī 1994a: 219–312.

prohibited in marriage and family life (*al-ḥalāl wa-l-ḥarām fī al-zawāj wa-ḥayāt al-usra*) is deliberately situated between the other two.³⁷⁹ This tripartite division is crucial to al-Qaraḍāwī's notion of Islamic normativity as a balanced and comprehensive system, in which gender and sexuality literally provide the organic link between the individual and society. It is by regulating the individual's sexuality that society is perfected. But how does al-Qaraḍāwī, who assigns *fiqh*, as we have seen, to an individual's exterior actions (*afāl ṣāhira*),³⁸⁰ engage with and translate the discipline in the framework of this biopolitical project into practice?

In the third chapter of the book, on marriage and family life (*fī al-zawāj wa-ḥayāt al-usra*), it is apparently the exterior dimensions of gender and sexuality that al-Qaraḍāwī addresses. Thus, he writes in its first subchapter, on the field of instincts (*fī majāl al-gharīza*), about topics like the solitude (*khalwa*) with a stranger of the opposite sex,³⁸¹ the regulation of the gaze (*al-naẓar*), the female body's exterior adornment (*zīna*) and the outward display of women's charms (*tabarruj*), about the intimate parts of the male and female body (*ʿawra*), women's interaction with their husbands' male guests, fornication (*zinā*), sexual deviance (*shudhūdh jinsī*), homosexuality (*liwāṭ*) and onanism (*istimnā' bi-l-yad*).³⁸² Similarly, he discusses in the second subchapter, on marriage (*zawāj*), the (il)legitimacy of seeing the fiancée (*al-naẓar ilā al-makḥtūba*) prior to marriage, prohibited courtship (*khiṭba muḥarrama*), temporary marriage (*zawāj al-mutʿa*) and polygamy (*taʿaddud*).³⁸³ On the relations between husband and wife (*al-ʿalāqa bayna al-zawjayn*), he writes about the couple's sensuous and bodily relations (*ʿalāqa ḥissiyya*), the legitimate positions of intercourse and the prohibition of anal sex (*ittiqāʾ al-dubr*), birth control (*tanẓīm al-nasal*), abortion (*isqāṭ al-ḥaml*) and a wife's repudiation by her husband (*ṭalāq*).³⁸⁴

For this assignment of *fiqh* to the individual's exterior actions (*afāl ṣāhira*),³⁸⁵ al-Qaraḍāwī's chapter on homosexuality – or “sexual deviance” (*shudhūdh jinsī*) – provides an

³⁷⁹ al-Qaraḍāwī 1994a: 43–148.

³⁸⁰ al-Qaraḍāwī 1999c: 6.

³⁸¹ The category of “strangers” includes, from the man's perspective, those women “who are not his wife nor one of his female relatives whom he may never marry, like the mother, the sister, the maternal and paternal aunt [...]” (al-Qaraḍāwī 1994a: 142–143).

³⁸² al-Qaraḍāwī 1994a: 131–162.

³⁸³ al-Qaraḍāwī 1994a: 163–180.

³⁸⁴ al-Qaraḍāwī 1994a: 181–202.

³⁸⁵ al-Qaraḍāwī 1999c: 6.

exemplary case in point.³⁸⁶ The notion of *al-shudhūdh al-jinsī*, as Joseph Massad has pointed out, only gained currency in the twentieth century.³⁸⁷ Following the Arabic translations of Freud in the 1950s and of Foucault's *History of Sexuality* in the 1990s, the term *jins* and its more novel derivative *jinsiyya* gradually acquired the connotation of "biological sex" and "sexuality".³⁸⁸ In parallel, Arab translators of psychology books and behavioural psychologists coined the notion *al-shudhūdh al-jinsī* to render the European expression "sexual deviance", which turned into "the most common term used in monographs, the press, and polite company to refer to the Western concept of 'homosexuality'".³⁸⁹

Despite his use of this modern terminology, however, al-Qaraḍāwī's chapter on "sexual deviance" (*shudhūdh jinsī*) sticks to a premodern framework, in which "the act of the people of Lot" (*'amal qawm Lūṭ*) or, more briefly, *liwāṭ* (lit. "sodomy") is still an outer act.³⁹⁰ Hence he denounces the latter as

[...] العمل الخبيث انتكاس في الفطرة، وانغماس في حمأة القذارة، وإفساد للرجولة، وجناية على حق الأنوثة

a repulsive deed (*'amal khabīth*) that is an inversion of human nature (*intikās fī al-fiṭra*), an immersion in a mire of impurity (*inghimās fī ḥama'at al-qadhāra*), a corruption of masculinity (*ifsād al-rujūla*) and a criminal offence against the rights of femininity (*jināya 'alā ḥaqq al-unūtha*).³⁹¹

The modern notion of homosexuality as an individual's natural inner identity and orientation is in this definition largely absent.

There are, however, a number of other provisions in *al-Ḥalāl* that stand in a certain tension to *fiqh*'s alleged focus on the individual's outer actions (*af'āl ṣāhira*). Thus, we find in the subchapter on the relations between spouses (*al-'alāqa bayna al-zawjayn*) the reference to their mutual duty to have patience with their partner (*an yaṣbir 'alā ṣāhibihī*), invoking one of the cardinal virtues in Islamic ethics.³⁹² Or, in the subchapter on instincts (*gharā'iz*, sg.

³⁸⁶ al-Qaraḍāwī 1999c: 6.

³⁸⁷ Massad 2008: 172.

³⁸⁸ Massad 2008: 171–172.

³⁸⁹ Massad 2008: 172.

³⁹⁰ al-Qaraḍāwī 1994a: 160.

³⁹¹ al-Qaraḍāwī 1994a: 160.

³⁹² al-Qaraḍāwī 1994a: 189–190; Wensinck 1995; Mahmood 2011: 171.

gharīza), the warning against gazing at the other sex with desire (*al-naẓar ilā al-jins al-ʾākhar bi-shahwa*), since “the eye is the key of the heart (*miḥṭāḥ al-qalb*), and the look is a messenger of desire (*fitna*) that carries the message of fornication (*zinā*)”.³⁹³

The implied tension between *fiqh*’s focus on an individual’s exterior actions in theory and al-Qaraḍāwī’s references to a number of (un)lawful inner dispositions and virtues in practice eventually re-emerges in the book’s epilogue (*al-khātima*), where he revisits the distinction between an individual’s internal dispositions and his or her exterior acts, and their respective places in Muslim normative thought in more general terms.³⁹⁴ Surprisingly, he highlights the relevance of “the actions of the hearts” (*aʾmāl al-qulūb*) and “the movements of the souls, the sentiments and desires” (*aʾmāl al-nufūs wa-l-ʾawāṭif wa-l-irādāt*) like envy (*ḥasad*) and covetousness (*ḥiqd*), pride (*kibr*) and arrogance (*ghurūr*), hypocrisy (*riyāʾ*) and ostentation (*nifāq*), and greed (*shuḥḥ*) and lust (*ḥirṣ*) in Islamic normative thinking.³⁹⁵ Quoting the two Qur’anic verses {God changes not what is in a people, until they change what is in themselves} (Q 13: 11) and {the day when neither wealth nor sons shall profit except for him who comes to God with a pure heart} (Q 26: 8–9), he argues that it is “the soundness of human’s spiritual existence (*al-kiyān al-maʾnawī*), the ‘heart’ (*al-qalb*)” that represent “the fundament” for cultivating a pious subjectivity and a virtuous society at large.³⁹⁶

This primacy of “human’s spiritual existence” (*al-kiyān al-maʾnawī*) and the purity of the heart is further elaborated by reference to a Prophetic tradition (*ḥadīth nabawī*), in which the *qalb* is invoked as the bodily locus for governing the self, and which provides *al-Ḥalāl* its title:

ومن هنا ذكر النبي صلى الله عليه وسلم في حديثه المشهور أن “الحلال بين، والحرام بين، وأن بينهما مشتهيات من اتقاها فقد استبرأ لدينه وعرضه، ومن وقع فيها أوشك أن يواقع الحرام، وإن لكل ملك حمى وأن حمى الله في أرضه محارمه [...] ألا وإن في الجسد مضغة إذا صلحت صلح الجسد كله، وإذا فسدت فسد الجسد كله. ألا وهي القلب.”

Hence, the Prophet – God bless him and grant him salvation – recalls in his renowned tradition (*ḥadīth*): “The lawful (*al-ḥalāl*) is clear, and the prohibited (*al-ḥarām*) is clear. And

³⁹³ al-Qaraḍāwī 1994a: 144–146.

³⁹⁴ al-Qaraḍāwī 1994a: 313–318.

³⁹⁵ al-Qaraḍāwī 1994a: 313.

³⁹⁶ al-Qaraḍāwī 1994a: 313.

between the two, there are doubtful matters (*mushtabahāt*). Whoever avoids them has cleared himself [from suspicion] (*istabrah*) in regard to his religion and his honour (*li-dīnihi wa-irḍihi*), while whoever engages in them is on the verge of falling into the prohibited. Truly, every king has a protected sanctuary (*himā*), and the sanctuary of God on His world is what He has prohibited. [...] In the body, there is a piece of flesh. If it is sound the whole body is sound, while if it is corrupted the whole body is corrupted, and that is the heart.”³⁹⁷

The moral physiology that marks the heart as the central bodily site for governing the self is made stronger in the following interpretation of al-Qaraḍāwī:

فالقلب هو رئيس أعضاء البدن، وراعي جوارحه كلها، وبصلاح هذا الراعي تصلح الرعية كلها، وبفساده تفسد. وميزان القبول عند الله هو القلب والنية، لا الصورة واللسان: “إن الله لا ينظر إلى صوركم ولكن ينظر إلى قلوبكم” “إنما الأعمال بالنيات وإنما لكل امرئ ما نوى”.

The heart is the chief of all organs of the body and governs all its limbs. When the ruler is sound, all its subjects are sound, and when it is corrupted, they are corrupted. The scale to weigh one’s acceptance (*mīzān al-qubūl*) with God is the heart and the intention (*al-qalb wa-l-niyya*), not the outer form and the tongue (*al-ṣūra wa-l-qalb*): “God does not look at your (outer) form, but He looks at your hearts.” “Deeds [are judged] by intentions (*al-a‘māl bi-l-niyyāt*), and everyone [will be judged] according to what he intends.”³⁹⁸

Despite the relevance of the purity of the heart (*al-qalb*) and the affairs of the soul (*al-umūr al-naḥsiyya*), however, al-Qaraḍāwī concedes that he has not dealt with the acts of the heart in his text. The reason for this omission, he elaborates, lies in the particular order of Muslim knowledge (*‘ilm*), which assigns “the sphere of ethics” (*al-akhlāq*) to the disciplines of mysticism (*‘ilm al-taṣawwuf*); a perspective that is consistent with the ideas he later sketches in *Taysīr*.³⁹⁹

Remarkably, al-Qaraḍāwī has revisited the “just balance” (*mīzān*) between the individual’s outer actions and “the acts of the hearts” (*‘amāl al-qulūb*) in a number of his later writings, drawing his ideas on *fiqh* increasingly closer to the work of Abū Ḥāmid al-Ghazālī (d. 505/1111), as we shall see. In doing this, he gradually shifts and reconfigures the

³⁹⁷ al-Qaraḍāwī 1994a: 313.

³⁹⁸ al-Qaraḍāwī 1994a: 313–314.

³⁹⁹ al-Qaraḍāwī 1999c: 5. Again, al-Qaraḍāwī expressly departs from al-Ghazālī (d. 505/1111), whose *ihyā’ ‘ulūm al-dīn* he invokes as an exemplary precedent for the ethical engagement with “the calamities of the souls” (*al-ghawā’il al-naḥsiyya*) in Muslim tradition (al-Qaraḍāwī 1994a: 314).

disciplinary boundaries between *fiqh* and the science of ethics (*‘ilm al-akhlāq*) itself. However, before pursuing this development in al-Qaraḍāwī’s texts – and its provisional conclusion in a re-edition of *al-Ḥalāl* more than half a decade after its first publication – we will tackle another tool (*wasā’il*, sg. *wasīla*) by which knowledge (*‘ilm*) circulates and is consumed and by which a pious self is cultivated. This means has captured the attention of both al-Qaraḍāwī and Western scholarship alike in the past few decades: the question (*al-su’āl*), or more narrowly, the fatwa.

3. The Beauty of the Question

حسن السؤال هو نصف العلم.

*The beauty of the question is half the truth.*⁴⁰⁰

AL-QARADĀWĪ

It is 21 May 2006, 9 p.m. local time in Mecca. The camera captures the image of a middle-aged man in a suit of grey flannel. He sits in front of a wall inlaid with carved wooden latticework (mashrabiyya). A voluminous dark moustache sprawls over his upper lip. His head is slightly inclined to the right.

توفيق طه: نعم، ما مدى أهمية هذه الفتوى بالنسبة لحياة المسلم؟ وهل يجب عليه أن يستفتي في كل صغيرة وكبيرة من حياته؟

TAWFĪQ ṬAHA: Yes. What is the extent (madā) [He lifts his hands to chest level, gesturally epitomizing the “extent” between the palm of his right and his left] of the fatwa’s importance in relation to the daily life of a Muslim (ḥayāt al-muslim)? Is he obliged to request a fatwa for each minor and major affairs of his life?

The camera rests on the anchorman while al-Qaradāwī’s voice sounds from off-screen.

القرضاوي: هذا أمر مهم جداً، إذا كان الإنسان يهمله أمر الدين الأصل أن الإنسان .. خصوصاً الإنسان المتدين ليس إنساناً سائباً يفعل ما يشاء ويحكم ما يريد، لا بل هو إنسان مقيد بتعاليم يجب أن لا يتخطاها، بأحكام يجب أن يطبقها في حياته الفردية والأسرية والاجتماعية، فإذا كان يعرف هذه الأحكام بطريقة من الطرق، درسها، قرأها في كتاب، جلس عند بعض العلماء وأصبح يعرفها فما عليه شيء، إذا لم يكن يعلمها ففرض عليه أن يسأل مَنْ يعلم والله تعالى يقول {فَاسْأَلُوا أَهْلَ الذِّكْرِ إِنْ كُنْتُمْ لَا تَعْلَمُونَ} الجاهل يسأل العالم.

AL-QARADĀWĪ: This is a very important affair if somebody cares about religion (amr al-dīn). [Now, the camera switches to al-Qaradāwī, who sits at a semicircular brownish table, and slowly zooms in on him, while the anchorman who sits opposite him

⁴⁰⁰ al-Qaradāwī 2010c.

fades off-screen. Al-Qaraḍāwī holds on to a sheet of paper spread on the tabletop in front of him.] The principle (al-aṣl) [His right hand lets the paper go to gesturally underline the syllable stressing of his words in the air] is that somebody ... especially somebody religious (al-insān al-mutadayyin) is not a lax human being who [Now, his hand twice makes a dismissive gesture away from his torso towards off-screen] does what he wishes, and rules what he wants, no – rather he is somebody bound [His thumb touches his index and his second finger, and his hand makes a short, vertical movement] by the teachings – that he must not disregard [He draws a number of points in the air]; and by the rules [Again, the short vertical gesture] – that he must apply in his individual, familial and societal life. If he knows these rules in any way, studying them [He makes a shovelling gesture towards the anchorman Tawfīq Ṭaha], reading them in a book [Again, the shovelling gesture], sitting with some scholars [And again], and he gets to know them, there's nothing upon him [He lifts his hand up and directs its open palm towards the anchorman]. If he does not know them, it is a duty (farḍ) upon him [He points with his index to his opposite] to ask the one who knows. And God – may He be exalted – says: {Ask the people of the remembrance, if it should be that you do not know}. [He pauses] The one who does not know (al-jāhil) [His hand describes an arch from right to left] asks the one who knows (al-ʿālim).⁴⁰¹

Al-Qaraḍāwī's normative deliberations on writing and reading as effective means for seeking knowledge (*wasā'il li-ṭalab al-ʿilm*) are, as we have seen in the previous chapter, embedded in a set of broader reflections that mirror the classical imaginary of his readers' varying intellectual capacities, the traditional categories of Muslim orthodox text criticism and the predicaments of modern consumer culture. In doing this, al-Qaraḍāwī addresses the Muslim reader as a conscious consumer of the modern print market, who is obliged to make a well-considered choice about books as commodities.

The success of reading as a technique for the cultivation (*tathqīf*) and refinement (*tathaqquf*) of a pious self, however, remains inextricably bound to the mediation and critical intervention by the scholar – as a translator, compiler and a corporal companion – whose bodily presence is indispensable for the sound mediation of the text. It is at the

⁴⁰¹ al-Qaraḍāwī 2006g.

intersection of these overlapping norms and reservations that al-Qaraḍāwī locates the authorized Islamic book (*al-kitāb al-islāmī al-mu'tamad*) – in whose material body these normative regulations are viscerally inscribed – and the practice of reading as powerful technologies for the formation of a pious self.

As I will show in this chapter, these observations can be extended to al-Qaraḍāwī's normative reflections on a number of other practices for the transmission and acquisition of knowledge. These comprise the oral-aural practices of listening (*samā'*), attending “sessions of knowledge” (*majālis al-'ilm*) and – most prominently – asking and answering questions (*su'āl*).⁴⁰²

A primary way to gain understanding, and the only suitable way for the illiterate is, al-Qaraḍāwī argues, the acquisition of knowledge by learning (*talaqqā*) and listening (*samā'*) to the oral speech (*mushāfaha*) of the scholars, “trustworthy in their knowledge and their piety (*thiqāt fī 'ilmihim wa-taqwāhum*), and who [really] understand religion and reality together (*ḥasuna fahmuhum li-l-dīn wa-l-wāqī' ma'an*)”.⁴⁰³ This primacy of listening maintains at once the classical privilege of the auditive sense over vision (*baṣar*). Whereas the former is associated with knowledge transmitted by revelation (*al-'ilm al-manqūl 'an al-wahy*) and the religious disciplines, the latter serves as the basis for material knowledge grounded in observation and experiment; a knowledge which al-Qaraḍāwī remarkably relates to the heart (*fu'ād*) as the central bodily locus of the rational sciences.⁴⁰⁴

⁴⁰² Al-Qaraḍāwī has outlined these aural and oral technologies first in *Ṭarīq* (2007b: 114–116), where he describes knowledge (*'ilm*) – in comparison to mystical revelation (*kashf*) and inspiration (*ilhām*) – as the privileged path towards God, and later in *al-Fatwā* (2008c: 56–57). In the present chapter, I seek to provide a systematic and not a chronological account of these technologies in al-Qaraḍāwī's writings.

⁴⁰³ al-Qaraḍāwī 2007c: 114. For a discussion of “reality” as a hermeneutical principle that informs the ethico-legal practices of the scholar, see chapter III.1.

⁴⁰⁴ al-Qaraḍāwī 1996: 232. On the perception of the heart as the bodily site of reason, Powers writes in his seminal study on intention (*niyya*) in medieval legal texts: “[T]he texts reflect the belief prevailing in medieval Islamicate lands that the *qalb* (known to be an organ located in the chest) was the seat of the intellect, the *'aql* (mind or rational faculty). The *qalb* was [...] [seen] as what Wensinck calls the ‘the central organ of intellect and attention’. [...] Prior to the Islamicate adoption of Galenic medicine, which held the brain (Arabic: [*dimāgh*]) to be the organ of perception and intellection, this view held sway. In fact, this position was widely held until long after the Greek medical system was circulating in Arabic; Greek thought, in general, took greater hold among the Islamicate philosophers than among the jurists or the general population. Classical *fiqh* texts reflect this understanding of the ‘heart’ as the seat of the intellect, and even

One way (*ṭarīqa*) related to this aural–oral method for acquiring knowledge that al-Qaraḍāwī describes in a later text is to attend “sessions of knowledge” (*majālis al-‘ilm*); that is, the acquisition of knowledge by seeking the bodily (co-)presence of the scholar.⁴⁰⁵ Although he refers in this context to the invocation of God (*dhikr*) by dervishes (*darāwīsh*, sg. *darwīsh*) and impostors of Sufism (*ad‘iyā’ al-taṣawwuf*), he distances the practice from their “groans, utterances and gestures”. Rather, he invokes the more useful orthopraxis of the companions of the Prophet and their successors:

تذاكر أمور الدين، وتلاوة كتاب الله، وتذاكر الحلال والحرام، وتذاكر التفسير والحديث والفقه. هذا هو أعظم ذكر.
إنه الذكر النافع

To remind each other (*tadhākur*) of the affairs of religion, the recital of the Book of God, to remind each other of the lawful and the prohibited (*al-ḥalāl wa-l-ḥarām*), to remind each other of the Qur’an’s exegesis (*al-tafsīr*), of the tradition (*al-ḥadīth*) and of jurisprudence (*al-fiqh*). This is the most significant invocation. It is the useful invocation (*dhikr nāfi‘*).⁴⁰⁶

This proper kind of *dhikr* that seeks to cultivate a specific knowledge – ‘*ilm nāfi‘*’, a useful knowledge – preserves in the individual an epistemological state that al-Qaraḍāwī describes in physiological terms as “enlivening the heart” (*ḥayyaya al-qalb*), which is a recurrent motif in his texts.⁴⁰⁷

In al-Qaraḍāwī’s theoretical discussions, the question (*su’āl*) is the third and most prominent way (*ṭarīq*) for knowledge to be acquired and a pious self to be formed.⁴⁰⁸ By positioning the question in this way, he grounds his discussions in a particular genre: the ethics or etiquette of the fatwa (*adab al-fatwā*).

Being perceived as a “meeting point between legal theory and social practice”, Western academic scholarship has developed a profound interest in the fatwa in the past few years.⁴⁰⁹ Often rendered as a non-binding legal opinion issued by a scholar (*muftī*) as a

many modern legal scholars retain it” (Powers 2006: 35–36). On the old-Arabic notion of “heart”, see Seidensticker 1992.

⁴⁰⁵ al-Qaraḍāwī 2008c: 57.

⁴⁰⁶ al-Qaraḍāwī 2008c: 57.

⁴⁰⁷ al-Qaraḍāwī 2008c: 57.

⁴⁰⁸ al-Qaraḍāwī 2008c: 57; al-Qaraḍāwī 2007b: 116.

⁴⁰⁹ Caeiro 2006: 661. The existing research literature on the fatwa is extensive. The obligatory starting point for a study of the fatwa today is still Masud et al. 1996.

reply to an individual enquirer's (*mustaftī*) question,⁴¹⁰ the fatwa's function has been conceptualized by academic scholarship in various ways: as a legal tool for brokering a stable relationship between law and society;⁴¹¹ as a means of establishing a sense of order and identity;⁴¹² or as an instrument for inducing legal change.⁴¹³

More recently, Alexandre Caeiro has suggested defining the fatwa – drawing on a notion of Alasdair MacIntyre and Talal Asad – as a discursive tradition.⁴¹⁴ In this view, the fatwa represents an instituted practice whose performance is defined and learned according to a correct model.⁴¹⁵ Since authority rests in this model on “a collaborative achievement between narrator and audience, the former cannot speak in total freedom: there are conceptual and institutional conditions that must be attended to if discourses are to be persuasive”.⁴¹⁶

The reflections on these conceptual and institutional conditions that define the correct performance of *iftā'* (the delivering of a fatwa) have produced in Muslim normative thought a theory of its own. This theory has been spelled out in the *adab al-fatwā* or *adab al-muftī wa-l-mustaftī* literature.⁴¹⁷ Existing research has paid relatively minor attention to this literature because of what Caeiro argues is the incorrect assumption “that, as an idealized account, the genre would have little to reveal about the history and dynamics of *iftā'*”.⁴¹⁸

Despite this presumed ahistorical character of the genre, al-Qaraḍāwī's normative reflections reveal – in comparison to those of his older predecessors – some decisive shifts in the moral universe of *iftā'*.⁴¹⁹ In his reflections, he begins with the image of a Muslim

⁴¹⁰ See e.g. Tyan 1965. For an innovative critique of this legalistic notion of the fatwa, see Agrama 2010.

⁴¹¹ Dallal 1995.

⁴¹² Hallaq 1994; Skovgaard-Petersen 1997: 13.

⁴¹³ Hallaq 1994; Johansen 1999.

⁴¹⁴ Caeiro 2006. A tradition, as Asad put it in his influential essay, “consists essentially of discourses that seek to instruct practitioners regarding the correct form and purpose of a given practice that, precisely because it is established, has a history” (Asad 1986: 14).

⁴¹⁵ Asad 1986: 15.

⁴¹⁶ Asad 1993: 210.

⁴¹⁷ Research on the genre in European languages includes Masud 1984; Messick 1986; Jackson 1992; Reinhart 1994; Krawietz 1995; Masud et al. 1996; Skovgaard-Petersen 1997; Masud 2009.

⁴¹⁸ Caeiro 2006: 663. This perspective has been prominently advocated by Masud et al. 1996: 15, among others.

⁴¹⁹ Caeiro 2006: 669–672.

enquirer whom he locates in an initial situation of difficulty, obscurity and epistemological ambiguity:

يسأل المسلم فيما يعرض له من أمور، وما يعن له من مشكلات يومية، تشتبه عليه الأمور فيها، ولا يعرف أهى من الحلال أم من الحرام.

The Muslim asks about those matters which get in his way and about those daily problems which arise before him where the affairs are obscure to him and he does not know whether they pertain to the lawful (*al-ḥalāl*) or to the prohibited (*al-ḥarām*).⁴²⁰

In a similar vein, he begins his meditation on the question (*al-su'āl*) in a later text, where he qualifies that the act of asking is even a normative obligation:

وفرض على المسلم أن يسأل في كل ما يعترضه من مسائل أو مشكلات يجهل فيها حكم الشرع.

It is a religious duty (*farḍ*) for the Muslim to ask about all those problems and issues that stand in his way, and about which he doesn't know the rule of law (*ḥukm al-shar'*).⁴²¹

The act of asking is thus represented as an empowering – and simultaneously binding – technique that enables the individual to overcome an initial situation of difficulty, obscurity and ambiguity. As a tool (*wasīla*) of the questioner's epistemological transformation towards clarity, the question is structured and regulated by a set of distinct norms and principles that al-Qaraḍāwī subsequently captures with the term *ḥusn al-su'āl* – the excellence or beauty of the question.⁴²²

The first of these conditions concerns the question's legitimate addressee, whom he variously invokes as “those who know” (*ahl al-ilm*, *ahl al-ma'rifa*), “those who have experience” (*ahl al-khibra*), “those who remember” (*ahl al-dhikr*) or, adopting another Qur'anic term, “those in authority” (*ūlū al-amr*). But who are “those in authority”?⁴²³

As several academic scholars have pointed out, answering this question is a central concern in al-Qaraḍāwī's writings.⁴²⁴ He spelled out the normative foundations of this

⁴²⁰ al-Qaraḍāwī 2008c: 57.

⁴²¹ al-Qaraḍāwī 2007b: 116.

⁴²² al-Qaraḍāwī 1996: 214–217; 2008c: 43–55.

⁴²³ al-Qaraḍāwī 1996: 212; 2008c: 57.

⁴²⁴ See e.g. Skovgaard-Petersen 2004; Caeiro 2006.

authority first in the prologue to his fatwa collection *Hudā* or *Hady al-islām*,⁴²⁵ which he later expanded into two articles in the journal *al-Muslim al-mu‘āṣir*.⁴²⁶ The two were eventually published together in a separate booklet in order, as he put it, to popularize his insights beyond the limited readership of intellectual journals (*majallāt fikriyya*).⁴²⁷

In the prologue to the first volume of his fatwa collection, he frames his normative thoughts on the fatwa in an autobiographical account.⁴²⁸ There he highlights his early vocation for *fiqh* while still at primary school in his village, his ongoing dedication to Muslim normative thought and practice during his studies of Islamic theology (*uṣūl al-dīn*) at the Azhar, his liberation from all kinds of “doctrinal dogmatism, blind submission and fanaticism” (*tamadhub wa-taqlīd wa-ta‘aṣṣub*) due to his affiliation to the Islamic movement (*al-ḥaraka al-islāmiyya*) and his continuous attachment to the principle of *taysīr* that put him in opposition to the scholars of his village who followed the school of al-Shāfi‘ī (d. 204/820) – a school which he considers among the most severe (*min ashadd al-madhāhib*) in affairs of ritual purity.⁴²⁹

After this initial stage, he continues, he held regular study circles (*nadawāt*, sg. *nadwa*) at the mosque of Zamālik in Cairo following the Friday sermon, when those who had prayed used to approach him with their written questions (*as‘ilatuhum maktūba*) to which he used to provide oral responses.⁴³⁰ In the same period, he began to publish some fatwas in Islamic magazines (*al-majallāt al-islāmiyya*), namely in *Nūr al-islām*, issued by the Azhar, and *Minbar al-islām*, edited by the Egyptian Ministry for Religious Endowments (*wizārat al-awqāf al-miṣriyya*), where he wrote – due to his ongoing surveillance by the Egyptian state – under the pseudonym of Yūsuf ‘Abd Allāh. His continuous engagement with *fiqh* resulted in the publication of his first book, *al-Ḥalāl*, which was soon followed by his dissertation, *Fiqh al-zakāt*.⁴³¹

⁴²⁵ al-Qaraḍāwī 2009a: 5–36.

⁴²⁶ al-Qaraḍāwī 2008c: 5.

⁴²⁷ al-Qaraḍāwī 2008c: 5.

⁴²⁸ al-Qaraḍāwī 2009a: 5–36.

⁴²⁹ al-Qaraḍāwī 2009a: 5–8.

⁴³⁰ al-Qaraḍāwī 2009a: 8. This contradicts Hallaq’s statement that in the process of providing fatwas, paper is generally involved (Hallaq 1994: 31). Our perspective on the involvement of oral communication in the fatwa, however, has meanwhile been complicated by the insights of Masud et al. (1996: 23–24).

⁴³¹ al-Qaraḍāwī 2009a: 8; al-Qaraḍāwī 2004b: 292.

With his move to Doha and arrival of broadcasting in Qatar in the late 1960s, al-Qaraḍāwī was entrusted with providing fatwas to Qatari citizens in a weekly radio programme entitled *Nūr wa-hidāya*, and then from the early 1970s on television in the programme *Hady al-islām*.⁴³² Eventually, he was approached by many of his listeners and viewers, asking him to collect and publish his fatwas in a written volume.⁴³³ To these fatwas from his radio and television programmes, he added a number of written fatwas, some of which had already been published. This anthology formed the first volume of his fatwa collection, published under the title *Min hady al-islām*.⁴³⁴

In the following subchapter of his introduction to this first volume, he outlines six programmatic principles that shaped his approach to the fatwa (*nahj fī al-iftā'*).⁴³⁵ These principles would later be reproduced in the two previously mentioned articles in the journal *al-Muslim al-mu'āṣir* and subsequently re-edited in the separate booklet *al-Fatwā*.⁴³⁶

While *al-Fatwā* partly reproduces his earlier arguments, however, it replaces al-Qaraḍāwī's autobiographical account with a depersonalized introduction.⁴³⁷ The reason for this programmatic reframing is revealed in the text's opening, namely the increasing fragmentation of Muslim authority due to the Islamic revival and the arrival of new media:

(الفتوى بين الانضباط والتسيب) هذا الموضوع الذي عمّت الشكوى منه اليوم، ولاسيما في عصر الفضائيات، وما أفرزته من جراحة أناس كثيرين للتصدي للفتوى علي الهواء، دون أن يتورعوا عن الخوض فيما لا يحسنون. فهم جاهزون أبدا للفتوى. في العبادات والمعاملات وشئون الأسرة والمجتمع والدولة والسياسة والاقتصاد والعلاقات الدولية... ولا يقول أحدهم يوما ما: لا أدري. أو أن هذا الموضوع يحتاج إلي بحث ومراجعة ومشاورة. لهذا كان وضع الضوابط للفتوى، والتحذير من المزالقات، وبيان شروحيها، ومؤهلاتها؛ أمراً مهماً، بل ضرورياً.

⁴³² al-Qaraḍāwī 2009a: 9. For further information on these two programmes, see Gräf 2010: 201–209.

⁴³³ The process was lengthy, he remembers, for several reasons: “Among them was that the nature of the improvised language (*al-lugha al-murtajala*) in which these fatwas were cast is unlike written language (*al-lugha al-maktūba*): the improvised expression needs some refinement and forming (*al-tahdhīb wa-l-ṣiyāgha*) to make it ready for printing and editing, and that requires time and effort. And among [these issues was] that some questions were repeated, and thus their answers were repeated. While their content was largely the same, their form and style (*al-siyāgha wa-l-uslūb*) differed” (al-Qaraḍāwī 2009a: 9).

⁴³⁴ al-Qaraḍāwī 2009a: 10. Al-Qaraḍāwī's media fatwas have been extensively analysed by Bettina Gräf both in her dissertation (2010) and in a number of essays (2007; 2008; 2014), where she tackles the question of how media usage transforms relations of religious authority in Sunni Muslim contexts, among other issues.

⁴³⁵ al-Qaraḍāwī 2009a: 11–32.

⁴³⁶ al-Qaraḍāwī 2008c: 5.

⁴³⁷ al-Qaraḍāwī 2008c: 5–8.

“The Fatwa between Discipline and Neglect” – this topic about which grievances have become prevalent today, particularly in the age of satellite television, and the many bold people that it has spawned who embark upon the fatwa live on air, without restraining from discussing what they are not able to [discuss]. They are always ready for a fatwa, concerning devotional practices (*al-‘ibādāt*), social intercourse (*al-mu‘amalāt*), the affairs of the family, of society, of the state, of economics, politics, of international relations ... and not one of them ever says “I don’t know” or “The topic requires [further] study, consultation and deliberation.” Therefore, it was a crucial imperative to write down the general rules of the fatwa (*al-dawābiṭ li-l-fatwā*), and to warn of its perils, and to set apart its comments and its qualifications; an important, even indispensable imperative.⁴³⁸

Al-Qaraḍāwī’s later text thus writes against this perceived fragmentation of Muslim authority, seeking, as Caeiro has aptly put it, to reassert the monopoly of interpretation of the ‘ulamā’ and to re-establish their authority in the face of secularization, the authoritarianism of the postcolonial nation-state, the arrival of new media and a polyphonic Islamic public sphere fostered by Sadat’s policy of economic liberalization in the 1970s.⁴³⁹ This objective is neatly reflected in the text at hand, where al-Qaraḍāwī restates in three subsequent chapters the importance and particular conditions of the fatwa (*makān wa-shurūṭ al-fatwā*), its perils (*mazāliq*, sg. *mazlaq*) and a contemporary method or programme (*manhaj*) for its provision.⁴⁴⁰

In the first chapter of *al-Fatwā*, following the prologue, al-Qaraḍāwī accentuates the loftiness of the office of [issuing] a fatwa (*jalālat manṣib al-fatwā*), which makes the mufti one who takes the Prophet’s place (*qā’im maqām al-nabī*); and he highlights the awe (*tahayyub*), hesitation (*tarayyuth*) and caution (*taḥdhīr*) which the companions of the Prophet felt when providing fatwas.⁴⁴¹ These historical and ethical constraints are subsequently reinforced on social grounds by denying contemporary practitioners the right to provide fatwas if their knowledge has not been mediated by the authoritative body of Muslim scholarship:

⁴³⁸ al-Qaraḍāwī 2008c: 3.

⁴³⁹ Caeiro 2006: 670. The fragmentation of Muslim scholarly authority by print culture in Egypt in the early twentieth century has been investigated by Smith (1973; 1999), among others. With regard to new media, this fragmentation has been prominently explored by Eickelman and Anderson (1997; 2003).

⁴⁴⁰ al-Qaraḍāwī 2008c. The first two chapters on the conditions (*al-shurūṭ*) and the perils (*al-mazāliq*) reflect the conventional chapter structure of premodern *adab al-fatwā* literature (Masud 1984: 15; Caeiro 2006: 664).

⁴⁴¹ al-Qaraḍāwī 2008c: 18. According to Masud et al. (1996), the early scholars al-Nawawī (d. 676/1277) and Ibn Khaldun (d. 808/1406) had already outlined several types of caution (*taḥdhīr*) that they attributed to early practitioners of *iftā’*, “including the founders of major Sunni law schools” (16).

وكثير من هؤلاء ليسوا من (أهل الذكر) في علوم الشريعة، ولا كلف نفسه أن يجلس إلى أهل الذكر ويأخذ عنهم، ويتخرج على أيديهم، إنما كَوّن ثقافته من قراءات سريعة في كتب المعاصرين، أما المصادر الأصلية فبينه وبين قراءتها مائة حجاب وحجاب، ولو قرأها ما فهمها، لأنه لا يملك المفاتيح المعينة على فهمها وهضمها. فكل علم له لغة ومصطلحات لا يفهمها إلا أهله العارفون به المتخصصون فيه.

Many of these are not from the “people of remembrance (*ahl al-dhikr*)” in the sciences of the shari‘a, nor did they bother themselves to sit with the people of remembrance and to learn from them and to be trained at their hands. Rather, they produced their cultivation (*thaqāfatahū*) by swiftly reading contemporary books, but between the original sources and their reading [matter] – there are a hundred and one veils in between. And if they would read them, they would not understand them, because they do not possess the particular keys to understand and digest them. Each knowledge has its language and terms that only its acknowledged possessors (*ahluhū al-‘ārifūn*) and its specialists (*al-mutakhaṣṣiṣūn fihī*) understand.⁴⁴²

The particular epistemic culture (*al-‘ilm wa-l-thaqāfa*) mediated through the confined body of the scholarly community entails a profound entrenchment in the authoritative texts, the virtue of understanding the Arabic language and its sensibility (*malakat fahm lughat al-‘arab wa-tadhawwuqahā*) and a practical knowledge of Muslim scholars: “their disagreement (*ikhtilāfahum*), the plurality of their perceptions (*madārikahum*) and the diversity of their orientations”.⁴⁴³

These epistemic and practical insights – the “smell of *fiqh*” (*rā’ihat al-fiqh*), as al-Qaraḍāwī dubs them a line below – are paralleled by a set of ethical virtues (*al-jānib al-akhlāqī fī al-muftī*) which are even given priority over the former.⁴⁴⁴ They comprise honesty

⁴⁴² al-Qaraḍāwī 2008c: 27.

⁴⁴³ al-Qaraḍāwī 2008c: 29. These conditions largely correspond to those which al-Qaraḍāwī formulated for the practice of *ijtihād* (1985). According to Masud et al., early “adab al-mufti treatises generally distinguish several levels of competence in relation to ijthad, or interpretation, the highest being the absolute (*muṭlaq*) or independent (*mustaqill*) mufti. [...] This exemplar engages in unfettered ijthad based on knowledge of the [...] sources [...], the fiqh literature [...] and its areas of consensus (*ijmā’*) and disagreement; and the Arabic language including grammar, syntax, and the related linguistic sciences. The basic interpretative techniques combine the capacity to identify relevant shari‘a source texts, with various methods of reasoning or derivation from those texts, to ascertain the legal assessment or rule (*ḥukm*) applicable to the specific matter in question” (Masud et al. 1996: 16–17). It appears, however, that “in later periods this ideal status was considered by some Sunnis to be unattainable” (Masud et al. 1996: 17).

⁴⁴⁴ al-Qaraḍāwī 2008c: 29.

(*amāna*) and piety (*taqwā*), the humbleness to admit one's ignorance or another mufti's superior knowledge, to acknowledge if one has erred, and the courage to speak the truth in the face of adversary power.⁴⁴⁵

While many of these normative thoughts reproduce the traditional concerns of premodern Muslim scholarship on the regulation of *iftā'*, others instead reflect, as Alexandre Caeiro has pointedly remarked, recent shifts and reconfigurations in the “moral universe” of *iftā'*.⁴⁴⁶ This applies particularly to al-Qaraḍāwī's notion of “reality” (*al-wāqī'*). Drawing on the third/ninth-century scholar Aḥmad b. Ḥanbal (d. 241/855) and the five necessary qualities (*khiṣāl*, sg. *khaṣla*) which the latter defined for the mufti,⁴⁴⁷ al-Qaraḍāwī highlights the necessity of combining the scholar's epistemic and ethical cultivation with a profound “knowledge of people” (*ma'rifat al-nās*) and his entrenchment in ordinary people's reality:

إن المفتي البصير يجب أن يكون واعياً للواقع، غير غافل عنه، حتى يربط فتواه بحياة الناس، فهو لا يكتب نظريات، ولا يُلقي فتواه في فراغ، ومراعاة الواقع تجعل المفتي يراعي أموراً معينة، ويضع قيوداً خاصة، وينبه على اعتبارات مهمة.

The insightful mufti has to be conscious of reality (*wā'ian li-l-wāqī'*) and not careless about it so that he connects his fatwas to people's lives (*ḥayāt al-nās*). He does not write theoretical reflections, nor does he deliver his fatwas in a void. The consideration of reality (*murā'āt al-wāqī'*) induces the mufti to consider specific affairs, to establish particular stipulations and to call one's attention to significant reflections.⁴⁴⁸

With his subsequent reference to a fatwa on birth control (*taḥdīd al-nasl*) by Ḥasan al-Bannā (d. 1949), in which the latter demands a balanced pairing of the *fiqh* of religion (*fiqh al-dīn*) with the *fiqh* of life (*fiqh al-ḥayāt*), al-Qaraḍāwī suggests an illustrative example for this realistic approach.⁴⁴⁹ The reference also shows the profound imprint of Islamic activism on al-Qaraḍāwī's engagement with the Muslim scholarly tradition of *iftā'*.

⁴⁴⁵ al-Qaraḍāwī 2008c: 41. Here, al-Qaraḍāwī invokes the passion and imprisonment of Ibn Taymiyya (d. 728/1328) as an exemplary figure embodying these virtues.

⁴⁴⁶ Caeiro 2006.

⁴⁴⁷ Ibn Qayyim al-Jawziyya 1991: 148.

⁴⁴⁸ al-Qaraḍāwī 2008c: 33.

⁴⁴⁹ al-Qaraḍāwī 2008c: 33–37. For a detailed analysis of al-Bannā's fatwa against birth control, see Shakry 2007: 185–189.

Al-Qaraḍāwī's eminent concern for reality is likewise reflected in the following chapter of *al-Fatwā*, on the perils (*mazāliq*, sg. *mazlaq*) that the mufti faces in our time. Again, he warns against a scholar lacking an understanding of the reality (*'adam fahm al-wāqī'*) to which the enquirers' questions relate.⁴⁵⁰

Tellingly, in the third chapter of *al-Fatwā*, al-Qaraḍāwī describes his contemporary program for the fatwa (*manhaj mu'āṣir li-l-fatwā*) as resulting from a close co-reading (*qirā'a*) of the foundational texts and reality (*al-wāqī'*).⁴⁵¹ The notion of facilitation (*al-taysīr*) takes – again – a highly prominent place in his mediation between these. *Taysīr*, al-Qaraḍāwī maintains, not only reflects the spirit of the Qur'an and the sunna, but also suits the adverse conditions of our times (*aṣrunā*), which are marked by the predominance of “materialism over spirituality, selfishness over altruism, utilitarianism over ethics” and a constant attack on religion (*dīn*) by secularists:

والفرد المسلم في هذه المجتمعات يعيش في محنة قاسية، بل في معركة دائمة، فقلما يجد من يعينه، وإنما يجد من يعوقه. ولهذا ينبغي لأهل الفتوى أن ييسروا عليه ما استطاعوا، وأن يعرضوا عليه جانب الرخصة أكثر من جانب العزيمة

The Muslim individual (*al-fard al-muslim*) lives in these [contemporary] societies under a merciless trial (*miḥna qāsiya*), even in a permanent battle (*ma'raka dā'ima*). He seldom finds someone who supports him; on the contrary, he [usually] finds someone who hampers him. And therefore, it is necessary that those qualified for the fatwa (*ahl al-fatwā*) facilitate his way (*yuyassirū 'alayhī*) as much as they can, and that they present him the perspective of permissibility more than the perspective of determination (*jānib al-'azīma*).⁴⁵²

Part of this facilitation (*taysīr*) is to address people in contemporary language (*bi-lughat al-'aṣr*); a language that, rather than stirring their sentiments by exaggeration (*ithārat al-'awāṭif bi-l-mubālaghāt*), appeals to their minds by logic (*mukhāṭabat al-'uqūl bi-l-mantiq*).⁴⁵³ Here, al-Qaraḍāwī refers to his own use of a familiar, simple and plain language (*lugha sahla*

⁴⁵⁰ al-Qaraḍāwī 2008c: 67–9. On the other hand, al-Qaraḍāwī argues that reality (*al-wāqī'*) should be rendered obedient to the text, and not vice versa (al-Qaraḍāwī 2008c: 79). On the relation of reality and the normative texts in al-Qaraḍāwī's theoretical thought, see chapters III.1.-4.

⁴⁵¹ al-Qaraḍāwī 2008c: 98.

⁴⁵² al-Qaraḍāwī 2009a: 13.

⁴⁵³ al-Qaraḍāwī 2009a: 15.

qarība ma'nūsa) that seeks to speak to a larger imaginary public that transcends the narrow circle of a cultivated elite:

وربما استخدمت بعض الألفاظ أو الأمثال العامية لتوضيح ما أريد. إنمي مني بأن جمهور المشاهدين والمستمعين ليسوا في مستوى واحد من الثقافة والفكر

And maybe I even used some colloquial terms and examples (*al-alfāz aw al-amthāl al-‘āmmiyya*) to clarify what I intended, believing that the mass of my viewers and listeners are not on a single cultural and intellectual level (*mustawā wāḥid min al-thaqāfa wa-l-fikr*).⁴⁵⁴

To these pragmatic and linguistic principles of the use of contemporary language (*al-lughā al-mu‘āṣira*) to reflect the varying intellectual states of his imaginary audience, al-Qaraḍāwī adds a further remark on hermeneutical grounds. He demands that a rule’s wisdom and reason (*ḥikma wa-‘illa*) be explained – an approach that he justifies with reference to these present times in which scepticism prevails:

ولم يعد أغلب الناس يقبلون الحكم دون أن يعرفوا مأخذه ومغزاه، ويعووا حكمته وهدفه، وخاصة فيما لم يكن من التعبيدات المحضة.

The majority of people are not ready to accept a rule (*al-ḥukm*) without knowing its source and its meaning (*ma’khaḍhahū wa-maghzāhū*), [without] becoming aware of its wisdom and its objective (*ḥikmatahū wa-hadaḥahū*), particularly in [affairs] that do not concern outright acts of worship (*al-ta‘bīdāt al-maḥḍa*).⁴⁵⁵

His subsequent demand to “give the fatwa its right of comment and explanation” (*iṭā’ al-fatwā haqqahā min al-sharḥ wa-l-īdāḥ*) deliberately departs from a particular strain of Muslim scholarly tradition which advised the mufti to provide short answers; a departure that he justifies again by reference to his imaginary audience which transcends the narrow circle of a cultural elite:

وهذا إن جاز مع بعض الأشخاص، وفي بعض الأحوال لا يجوز أن يكون قاعدة فيما يذاع على جمهور الناس. أو يكتب في صحيفة أو كتاب بقرؤه الخاصة والعامية.

⁴⁵⁴ al-Qaraḍāwī 2009a: 15; 2008c: 106–107.

⁴⁵⁵ al-Qaraḍāwī 2008c: 110.

And even if [the provision of short answers] is permitted for some people and in some circumstances, it is not permitted as a [general] principle (*qā'ida*) when it comes to that which is [to be] transmitted to the public (*yudhā' alā jumhūr al-nās*) or written in a newspaper, a magazine or a book that both the masses and the elite read (*yaqra'uhū al-khāṣṣa wa-l-āmma*).⁴⁵⁶

The success of the imaginary enquirer's epistemological transformation through the fatwa thus crucially depends on the regulation of the scholar's epistemic and ethical cultivation and on the particular linguistic form of his reply, which should reflect both the varying intellectual states of his imaginary audience and the social conditions of an age (*'aṣr*) dominated by materialism and scepticism.

Beyond these epistemic, ethical and linguistic conditions that restrict and limit the legitimate addressees of a question to a confined discourse community – “those in authority” (*ulū al-amr*) – there exist a number of further criteria and principles (*ādāb*, sg. *adab*) that guarantee the success of the enquirer's epistemological transformation through asking.⁴⁵⁷ These principles concern the enquirer (*al-mustaftī*). Some merely reflect the conditions discussed earlier, such as the demand that a question be realistic or, as al-Qaraḍāwī puts it, a “question about that which is useful or beneficial (*nafa'a*)”.⁴⁵⁸ Another condition that is of particular interest to us here relates to the enquirer's inner disposition when formulating his or her question.⁴⁵⁹ Accordingly, the enquirer's outer speech act is supposed to correspond to an inner, pious and God-fearing (*taqwā*) position and an attitude of attentive self-observation (*rāqaba*), abstaining from taking the formal legal opinion of the scholar (*fatwā*) as a “pretext for an affair (*amr*) that he knows from the abode of his soul [or his self] (*min qarār nafsihi*) is legally not lawful (*jā'iz*)”.⁴⁶⁰ The ultimate supervisory and undeceivable authority the enquirer has to attest to is, in the end, his conscience.⁴⁶¹

⁴⁵⁶ al-Qaraḍāwī 2008c: 121.

⁴⁵⁷ al-Qaraḍāwī 2008c: 43–56.

⁴⁵⁸ al-Qaraḍāwī 1996: 214–215; 2008c: 43. A useful question is, as he briefly explains, a question “about a reality (*wāqī'a*) that either [the enquirer himself] or others take pains with and for which he desires a rule (*ḥukm*)” (al-Qaraḍāwī 2008c: 43). A similar definition is provided in an earlier text: “And when the Muslim is demanded to ask the people of remembrance and experience in each discipline and art (*'ilm wa-fann*), so he is equally demanded to ask well (*aḥsana al-su'āl*) [...]: He asks about that which is useful to him in his religion or his earthly concerns (*fī dīnihi aw dunyāhu*) [...].” (al-Qaraḍāwī 1996: 214).

⁴⁵⁹ al-Qaraḍāwī 1999c: 5–6; 2008c: 48–51.

⁴⁶⁰ al-Qaraḍāwī 2008c: 48.

The particular linguistic form of the question should correspond to this inner position of attentive self-observation. The form is characterized by its bareness of “rhetorical decoration” and its articulation in a clear language, not concealing anything that affects the qualification of the matter. It exposes the affair in all its clarity (*wuḍūḥ*) and serenity to the scholar, without deceit nor distortion, exposing to him what is hidden (*khabāyā*, sg. *khabīʿa*) and what is concealed from him (*ukhfiya ʿanhu*) for his assessment.⁴⁶²

This inner ethos of the enquirer neatly reflects al-Qaraḍāwī’s understanding of the role of the legal scholar and of the discipline of *fiqh* at large: the mufti passes his judgement, just like the *qāḍī*, based on the visible and perceptible, that is the exterior and outward action (*ẓāhir*) of the legal subject, leaving to God and to the believer’s conscience any secret affairs (*khafāyā*, sg. *khafiyya*) and his or her inmost thoughts (*asrār*, sg. *sirr*).⁴⁶³

Despite its primal relation to the exterior, however, the fatwa represents in al-Qaraḍāwī’s perspective a powerful technology of ethical transformation that affects the enquirer’s interiority as well. It weaves in his chest (*ṣadr*), as he puts it, investing his heart with confidence (*thiqa*) and serenity (*itmiʿnān*), and with calmness (*istirāḥa*) and certainty (*yaqīn*).⁴⁶⁴ It is thus not the alignment of exterior action to the outer letter of the law to which the fatwa aspires, but rather to the attainment of a particular inner state in the heart (*qalb*), “or in the conscience (*ḍamīr*), [to use] the words of our time”.⁴⁶⁵

The relation of knowledge and power between the scholar and the enquirer is exemplified in two significant observations that al-Qaraḍāwī has made during his many years of providing fatwas on radio and television. Both are formulated on the final pages of the introduction to the first volume of his fatwa collection.⁴⁶⁶

⁴⁶¹ al-Qaraḍāwī 2008c: 49.

⁴⁶² al-Qaraḍāwī 2008c: 48-49.

⁴⁶³ al-Qaraḍāwī 2008c: 49. As Samira Haj has argued, early Orientalist scholars like William Tisdall represented Islam as a rigidly legalistic tradition that ignores the believer’s inner state (Tisdall 1895: 88; Haj 2011: 237–238). Subsequently, it was assumed that it was only “modernity [that] introduced subjective interiority into Islam, something that was previously absent” (Haj 2011: 237–238). This legalistic representation, however, had already been corrected by Ignác Goldziher (1925: 88), and later by Talal Asad (2003: 225), among others. For an interesting critique that identifies the “correction” by Goldziher, Asad and others as “a troubling tendency in the academic study of Islam to privilege interiority over exteriority”, see Powers 2006: 451.

⁴⁶⁴ al-Qaraḍāwī 2008c: 50-51.

⁴⁶⁵ al-Qaraḍāwī 2008c: 50.

⁴⁶⁶ al-Qaraḍāwī 2009a: 33.

His first observation qualifies the relation of power between “the religious scholar and the general public” (*‘ālim al-dīn wa-jumhūr al-sha‘b*).⁴⁶⁷ This relation is described in terms of familial affection (*maḥabba*) and amicable affinity, which al-Qaraḍāwī contrasts to the disciplinary and executive power of the state:

يجب أن يشعر الجمهور تجاه العالم أنه أب لصغيرهم، وأخ لكبيرهم، وصديق لجميعهم، وأنه ليس “شرطياً” يريد أن يضبطهم متلبسين، ولا “ممثلاً لاتهم” يطلب لهم أقصى العقوبة. بل هو محام يدافع عنهم، وإن كان في بعض الأحيان قاضياً يحكم بالعدل لهم أو عليهم. يجب أن يكون الفقيه المفتي مع سائليه كالطبيب النفسي مع مرضاه. لابد أن يثقوا به، ويستريحوا إليه، ويفضوا إليه بذات أنفسهم، ومكنون ما في صدورهم.

The public (*al-jumhūr*) must feel towards the scholar as if he is a father to its minors, a brother to its adults and a friend to all of them. And that he is not a “policeman” (*shurṭī*) that strives to arrest them red-handed, nor the “counsel for the prosecution” (*mumaththil ittihām*) that demands the utmost punishment (*aqṣā al-‘uqūba*) for them. But rather that he is an advocate (*muḥāmi*) who defends them, even if he is at times a judge (*qāḍī*) who rules with justice for or against them. The legal scholar, the mufti, must be in the eyes of his enquirers like the psychologist (*al-ṭabīb al-naṣī*) in the eyes of his patients (*marḍāhū*). It is indispensable that they trust in him, and that they are inclined to him (*yastariḥu ilayhi*), and that they open themselves (*bi-dhāti anfusihi*) to him, and [they expose to him] what is concealed in their chest.⁴⁶⁸

The institution of *iftā’* represents a moral appeal to the pious subject for voluntary self-disclosure to the psychological authority of the scholar.

Al-Qaraḍāwī’s second observation eventually reveals the profoundly gendered nature of his imaginary public. Highlighting the fact that women have a “greater concern with religion than men” (*akthar ihtimāman bi-dīniḥā min al-rajul*), he links women’s public expression of religiosity – and here, he reproduces an argument which is highly popular among proponents of the Islamic revival – to a particular inner-emotional and affective disposition that God has endowed them with:

ويبدو أن ما حباها الله وخصها به من مشاعر الحنان والرحمة والرفقة جعلها أقرب إلى الفطرة الدينية من الرجل , ولا عجب إن كانت رسائل السيدات والفتيات أكثر وأغرز من رسائل الرجال والفتيان , يكون حرصهن على التدين أكبر وخوفهن من سوء الحساب أقوى.

⁴⁶⁷ al-Qaraḍāwī 2009a: 35.

⁴⁶⁸ al-Qaraḍāwī 2009a: 36.

And it appears that the feelings of tenderness, compassion and mildness (*mashā'ir al-ḥanān wa-l-raḥma wa-l-riqqa*) that God has awarded and endowed her with made her closer to a religious nature (*al-fiṭra al-dīniyya*) than man. No wonder that if the letters of ladies and young girls are more numerous and abundant than the letters by men and young males, followingly also their desire (*ḥirs*) for piety greater and their fear of a bad account is stronger.⁴⁶⁹

As Ellen McLarney has convincingly argued, the gendered nature of this public renders women – and gender relations in general – a central place for this public's cultural and biological (re)production.⁴⁷⁰ By linking the woman to the sphere of the religious, however, al-Qaraḍāwī – much like other thinkers and activists of the Islamic revival – ironically reproduces the very secular and gendered divide between the private and the public, the family and the state, religion and politics, which his notion of Islam as a comprehensive system actually seeks to overcome.⁴⁷¹

Al-Qaraḍāwī's fatwas manifestly reproduce this secular association of gender and the religious. They capture and delineate a strategic place in the Islamic revival's biopolitical project which seeks to subvert and evade the rule of the (semi-)authoritarian state by cultivating a different kind of modern subjectivity at the very place to which the secular state has turned a blind eye: the sphere of the private – of gender, sexuality and religion. The fatwa, with its particular mechanics of power, provides a tool to occupy and fill this gendered and religious space of the private par excellence. Addressing and invoking the voluntary self-disclosure of the pious Muslim subject, it rests on a set of mechanisms that circumvent the state's disciplinary control of the public by targeting the individual believer's inner conscience.⁴⁷²

In the past few decades, the fatwa has been successfully expanded to new media technologies. Al-Qaraḍāwī's normative reflections on the fatwa and its authority have, as we have seen above, been motivated and triggered by this development.⁴⁷³ In the following chapter, we will engage more closely with al-Qaraḍāwī's thoughts on new media, their

⁴⁶⁹ al-Qaraḍāwī 2009a: 34.

⁴⁷⁰ McLarney 2015.

⁴⁷¹ McLarney 2015.

⁴⁷² Agrama 2010.

⁴⁷³ al-Qaraḍāwī 2008c: 3.

production and their consumption as the new and most effective tool (*wasīla*) for seeking knowledge (*ṭalab al-‘ilm*) and cultivating (*tathqīf*) a pious self.

4. The Conscious Muslim Viewer

الإعلام هو وسيلة من أخطر الوسائل التي تقوم
على التأثير في الإنسان، التأثير في عقله وفكره،
والتأثير في وجدانه ومشاعره، والتأثير في إرادته
واتجاهه

*Media are one of the most momentous means
for having an effect on someone: an effect on
one's mind and thinking, an effect on one's
feelings and sensations, an effect on one's
will and orientation.*⁴⁷⁴

AL-QARAḌĀWĪ

هناك أشياء يكون كل مستمع فيها فقيه نفسه
ومفتيها

*There are affairs in which every listener is
his own jurist and their mufti.*⁴⁷⁵

AL-QARAḌĀWĪ

Al-Qaraḍāwī's first appearance on Qatari national television dates back to 1970, shortly after the channel's launch on 15 August in the same year.⁴⁷⁶ In his memoirs he recalls that while he was on vacation in Beirut, he was asked to record six episodes for a weekly religious programme *Hady al-islām* that was to be aired on the newly established channel.⁴⁷⁷ After his return from Lebanon, he proposed to Maḥmūd al-Sharīf, later the Jordanian minister for information, and Jawād Maraqa, the director of Qatar TV, a new form for the

⁴⁷⁴ al-Qaraḍāwī 1999g.

⁴⁷⁵ al-Qaraḍāwī 1996e: 70.

⁴⁷⁶ al-Qaraḍāwī 2006a: 240. Islamic television emerged in the Arab world in parallel with the arrival of television transmissions in the region in the late 1950s and early 1960s (Hroub 2012: 5). These early Islamic transmissions – consisting of the recitation of the Qur'an, weekly coverages of the Friday sermon and additional religion-oriented material on religious occasions like Ramadan – were under the full control of the state (Hroub 2012: 5). Their “religious dose”, as Khaled Hroub has aptly put it, “had been carefully injected and politically calculated, mostly to furnish an Islamic image to the eyes of the public of secular and corrupt regimes” (Hroub 2012: 5).

⁴⁷⁷ al-Qaraḍāwī 2006a: 240.

programme, in which he himself would provide oral responses to written questions sent in by its viewers, without any interlocutor.⁴⁷⁸ The idea apparently convinced them.

When the programme started, it lasted twenty minutes; this was subsequently expanded to thirty minutes, and eventually to fifty minutes.⁴⁷⁹ With the arrival of satellite television in the early 1990s, its outreach was boosted, as al-Qaraḍāwī recalls in his memoirs (*dhikrayāt*) – from the Gulf, where it was viewed particularly in the Emirates and the Eastern Province (*al-minṭaqa al-sharqiyya*) of Saudi Arabia, to the Maghreb and other countries, with questions on various matters of importance to his audience arriving from across the region.⁴⁸⁰

Despite this transnational outreach, Ehab Galal argues that, in its set design, its visual framework and its performative setting, *Hady al-islām* remained deeply established within the framework of national television.⁴⁸¹ By focusing on al-Qaraḍāwī as “the only person in the studio, facing and talking directly to the viewer/national audience”, it positioned him as the authority “who talks to the viewer but does not expect him or her to answer back. This is the univocal dialogue used on public service television with the aim to inform and educate the mass audience.”⁴⁸²

It was only with the arrival of Al Jazeera’s *al-Sharī’a wa-l-ḥayāt* in 1996 that things took a new form. As al-Qaraḍāwī recollects in his memoirs, *Hady al-islām* lost much of its attraction; a loss that he attributes to the fact that *al-Sharī’a wa-l-ḥayāt* “is a live-to-air programme” (*‘alā al-hawā*) which lends it a distinct aura of “novelty and vitality”.⁴⁸³ In contrast to *Hady al-islām*, *al-Sharī’a wa-l-ḥayāt* provided the host or the presenter (*al-muqaddim*) a major role. Set against a background with pictures of global hot spots and having people call in to the show by telephone, its “intimate and performative setting”, as

⁴⁷⁸ al-Qaraḍāwī 2006a: 240. Based on al-Qaraḍāwī’s memoirs, Bettina Gräf suggests that this idea was inspired by the Egyptian programme *Nūr ‘alā nūr*, in which al-Qaraḍāwī was – along with other Islamist thinkers like al-Sha’rāwī, Abū Zahra, al-Madanī and al-Sanhūrī – interviewed by Aḥmad Farrāj, one of the most prominent figures of the Islamic mediascape (Gräf 2010: 208; see also al-Qaraḍāwī 2006a: 308–310). In addition, al-Qaraḍāwī produced two Ramadan programmes for Qatar TV, *Fī riḥāb al-qur’ān* and *Min mishkāt al-nubuwwa*, which he discontinued after two years due to lack of time (al-Qaraḍāwī 2006a: 240).

⁴⁷⁹ al-Qaraḍāwī 2006a: 240

⁴⁸⁰ al-Qaraḍāwī 2006a: 240.

⁴⁸¹ Galal 2009: 155.

⁴⁸² Galal 2009: 155. Similarly, Skovgaard-Petersen 2004.

⁴⁸³ al-Qaraḍāwī 2006a: 240.

Ehab Galal pointedly observes, “gives the viewer the possibility to identify with the actors in the dialogue. The viewer could potentially have been the one sitting together with Qaraḍāwī asking the same questions as the host does.”⁴⁸⁴ As such, *al-Sharīʿa wa-l-ḥayāt* marked a decisive shift towards a public space that Eickelman and Anderson have described as “discursive, performative, and participative, and not confined to formal institutions recognized by state authorities”.⁴⁸⁵

Al-Qaraḍāwī’s own normative reflections on modern media, and on television in particular, date from the early 1990s.⁴⁸⁶ From the beginning, he characterizes new media as “momentous and prompt in effect” (*muḥimm wa-sarī al-taʿthīr*).⁴⁸⁷ In an interview with the journalist Ḥamīd al-Anṣārī broadcast on Al Jazeera’s weekly programme *Al-Sharīʿa wa-l-ḥayāt*, he provides a detailed account of Islam’s perspective on media (*ruʿyat al-islām li-l-ʿilām*), in which he highlights the tremendous effect (*taʿthīr*) of the media on the intellectual, emotional and sensory formation of their consumers:

الإعلام هو وسيلة من أخطر الوسائل التي تقوم على التأثير في الإنسان، التأثير في عقله وفكره، والتأثير في وجدانه ومشاعره، والتأثير في إرادته واتجاهه، والذي يصنع الأفكار، والأذواق، والميول الشخصية والسياسية، والاتجاهات السياسية والفكرية، ويصحب الإنسان في حياته، ويدخل عليه مخدعه، يدخل عليه حجرة نومه

Media are one of the most momentous tools (*wasāʾil*, sg. *wasīla*) for having an effect (*taʿthīr*) on someone: an effect on one’s mind (*ʿaql*) and thinking (*fikr*), an effect on one’s feelings (*wajdān*) and sensations (*mashāʾir*, sg. *mashʾar*), an effect on one’s will (*irāda*) and orientation (*ittijāh*). They direct one’s thoughts (*afkār*, sg. *fikr*) and tastes (*adhwāq*, sg. *dhawq*), one’s personal and political inclinations and one’s cultural and intellectual orientations. They accompany one in one’s life, they come into one’s room and they come into one’s bedroom.⁴⁸⁸

⁴⁸⁴ Galal 2009: 155–156.

⁴⁸⁵ Eickelman/Anderson 2003: 2; Galal 2009: 155.

⁴⁸⁶ al-Qaraḍāwī 2007c: 115.

⁴⁸⁷ al-Qaraḍāwī 2007c: 115. Despite this characterization, however, the discussion of them in this particular text is only brief – a surprising fact, given its late publication date. It is only some years later, in the fourth volume of his fatwa collection *Min hady al-islām* and in a number of public appearances on satellite television and the internet, that he tackles the issue more thoroughly (al-Qaraḍāwī 2012: 686–718).

⁴⁸⁸ al-Qaraḍāwī 1999g.

In al-Qaraḍāwī's view, new media's effect (*ta'thīr*) rests on their all-pervasiveness and their intimate attachment to human bodily sensations, extending beyond individuals' consciences to society at large, directing "its thoughts (*tawjīh afkārīhim*), inclinations (*muyūl*, sg. *mayl*) and sensitivities (*adhwāq*, sg. *dhawq*)".⁴⁸⁹ This effect has increased both with media's tapping on new sensory channels and its enlarged circulation, which with satellite television has reached global dimensions.⁴⁹⁰

New media's effectiveness and pervasive influence, however, stand in stark contrast to – al-Qaraḍāwī maintains – the absence of any normative provision for them from an Islamic legal perspective.⁴⁹¹ With this claim of neutrality for new media, al-Qaraḍāwī clearly takes an opposing position to those Muslim scholars who had rejected any kind of visual media, either based on (what al-Qaraḍāwī perceives as) a *wrongly* interpreted ban on images or based on a charge of undue innovation (*bid'a*).⁴⁹² In a fatwa issued when an anonymous enquirer (*mustaftī*) asked a question about whether "watching programmes, films and series shown [during Ramadan] spoils fasting (*ṣawm*)", al-Qaraḍāwī asserts the principled neutrality of media: "Television is one of a number of tools (*wasīla min wasā'il*): there is good and there is evil in it."⁴⁹³

⁴⁸⁹ al-Qaraḍāwī 1999g.

⁴⁹⁰ Al-Qaraḍāwī highlights the influence of new media in a telling comparison with another technology for the dissemination of knowledge – "teaching" (*ta'līm*) – pointing out their common linguistic root in Arabic in the word for "knowledge" (*ilm*). "But teaching (*ta'līm*)", he continues, "accompanies the human being at school, at university and in places of study, whereas media accompany him wherever he is [...]. Even when he is in the car, he can listen to the radio, and some cars are even equipped with televisions" (al-Qaraḍāwī 1999g).

⁴⁹¹ al-Qaraḍāwī 2009a: 319-320. A similar observation in regard to al-Qaraḍāwī's position on media has been made by Skovgaard-Petersen (2004: 161).

⁴⁹² Already in *Ḥalāl*, al-Qaraḍāwī had invoked the prominent position of the former Egyptian Mufti Muḥammad Bakhīt al-Mutī (d. 1353/1935) on the legitimacy of photographic images (*al-jawāb al-kāfi fī ibāḥat al-taṣwīr al-fūtūghrāfi*). A photograph, for them, is not an act of creation (*'amaliyyat al-khalq*), but rather a capturing of creation's shadow (*ḥabs li-l-ẓill*). The colloquial term for "photography" in the Gulf region – "reflection" (*'aks*) – expresses this conception, al-Qaraḍāwī argues, in an exemplary manner. Later, he drew on the same argument against those "stern zealots who prohibit all 'reflection' (*'aks*) even if they are 'on television'", and who wrongly believe the reflection is identical to God's creation (al-Qaraḍāwī 1960: 109-110; 2009a: 699). For a broader discussion of the engagement of Muslims with images, see Ibrić 2006; Naef 2007. For positions on television taken by contemporary proponents of Wahhabism and Deobandism, see Görke 2010.

⁴⁹³ al-Qaraḍāwī 2009a: 319-320.

Despite this alleged neutrality, al-Qaraḍāwī has developed in the past few years a number of conditions (*shurūṭ*, sg. *sharṭ*) and general rules (*ḍawābiṭ*, sg. *ḍābiṭ*) to qualify and regulate the consumption and production of the media, which he would eventually subsume under the term *fiqh i'lāmī*, “media *fiqh*”.⁴⁹⁴ A central criterion is the content. The qualification of television as lawful or otherwise arises out of the qualification of “the thing (*shay'*) that is watched in the apparatus, not out of the apparatus itself. When it is good, then its viewing and its audition are permitted, [...] and when it is vicious [...] its viewing is prohibited [...].”⁴⁹⁵

The second condition that al-Qaraḍāwī highlights is “the judgement of the aims” (*ḥukm al-maqāṣid*);⁴⁹⁶ here he is using a term from Muslim legal philosophy that has become prominent in recent years, though he takes it in a somewhat unexpected direction. As he apodictically puts it: “In ordinary affairs, to the tools (*wasā'il*, sg. *wasīla*) applies the judgement of the aims (*ḥukm al-maqāṣid*): if the aim is lawful (*mashrū'*) [...], then [from this] the means acquire its judgement. The means is not forbidden in itself.”⁴⁹⁷

In order to highlight this primacy of the aims, al-Qaraḍāwī draws an analogy between television and the gun:

إنها في يد المجاهد عون على الجهاد ونصرة الحق ومقاومة الباطل، وهي في يد قاطع الطريق عون على الجريمة والإفساد في الأرض وترويع الخلق، وكذلك التلفزيون، من يستخدمه في معرفة الأخبار، ومتابعة البرامج النافعة ثقافيًا وسياسيًا واقتصاديًا، بل والبرامج الترفيهية بشروط وضوابط معينة، فهذا لا شك في إباحته ومشروعيته، بل قد يتحوّل إلى قربة وعبادة بالنية الصالحة.

In the hands of the Islamic freedom fighter (*al-mujāhid*), [the gun] is an aid for the holy war (*jihād*), supporting truth and opposing falsehood, while in the hand of the robber it is an aid for crime, for spoiling the land and frightening mankind. Thus also television: the one who

⁴⁹⁴ al-Qaraḍāwī 2012a: 705. Tellingly, al-Qaraḍāwī introduces the term *fiqh i'lāmī* first in a fatwa on the appearance of women on television, where he seeks to provide a systematic outline of the notion.

⁴⁹⁵ al-Qaraḍāwī 2009a: 319-320. Or as he formulates it more drastically with respect to the cinema: “[Let] its themes steer clear of impudence and moral depravity and everything that contradicts the doctrines of Islam, its revealed laws and its morals. When it comes to films that arouse the worldly instincts (*gharā'iz al-dunyā*) and incite misdeeds or bring about crime or induce perverse thoughts or circulate false beliefs and so forth: they are prohibited, and it is not permissible for the Muslim to watch them or to promote them” (al-Qaraḍāwī 2014c).

⁴⁹⁶ al-Qaraḍāwī 2014c.

⁴⁹⁷ al-Qaraḍāwī 2014c.

uses it to learn the news and to follow useful cultural, political and economic programmes – and – under certain rules and conditions – even programmes that provide relaxation, there is no doubt of the permissibility (*al-ibāḥa*) and legitimacy of this. Rather, it transforms [the watching of television] into a [virtuous] act performed in order to come closer to God (*qurba*) and a ritual act [which brings the creature into contact with his creator] (*‘ibāda*) through [its] pious intent (*bi-l-niyya al-ṣāliḥa*).⁴⁹⁸

The legal status of media is hence determined by whether the aims are lawful (*maqṣad mashrū‘*) and their consumer’s inner intention (*niyya*), which might even transform their consumption into an act of devotional practice (*‘ibāda*).⁴⁹⁹

This centrality of the aims of media and intentions of their consumers is further highlighted in a subchapter of another fatwa published on al-Qaraḍāwī’s website in 2014, where an anonymous enquirer asks about the moral precepts and orders on media work in Islam: “What are the general legal rules (*ḍawābiṭ*, sg. *ḍābiṭ*) to which the worker in the field of media has to turn his attention?”⁵⁰⁰

In his reply, al-Qaraḍāwī expands the question, suggesting that the matter comprises both “the informed (*al-mu‘lam*) as the one whom media reach (*waṣala*), the informer (*al-mu‘lim*) who communicates (*waṣṣala*) his message through them, and the instrument (*adāt*) that you use – language (*lugha*)”.⁵⁰¹ “When it comes to the informer”, he opens his line of argument,

أما المُعلِّم فلا بد أن يكون إنساناً مثقفاً حفيظاً عليمًا أو قوياً أميناً، قادراً على أن يوصل هذه الرسالة ويعرف أمانة الكلمة ومسئوليتها؛ ولذلك ينبغي أنه يُختار لهذا العمل الإنسان القادر على حمل هذا العبء [...]. نستطيع أن نخلص من هذا الأمر أنه يُشترط فيمن يعمل في مجال الإعلام أن تُطبَّق عليه القاعدة التي تُطبَّق على أي وظيفة (إن خير من استأجرت القوي الأمين) ولا تكفي فقط الكفاءة المهنية، وإنما أيضاً ينبغي توافر الأمانة والالتزام الخلقي.

he needs to be an educated (*muthaqqafan*) person, attentive (*ḥafīẓan*) and informed (*‘alīman*) or firm and reliable (*amīnan*), talented [and able] to convey his message, aware of the integrity of words (*amānat al-kalima*) and his responsibilities. And therefore it is necessary that a person is chosen [for this work who is] able to carry this burden. [...] Finally, we can arrive in this affair to the conclusion that for the one who works in the field of media it is a prerequisite that the [same] principle applies that applies to any job: {Indeed the best you can hire is a powerful and

⁴⁹⁸ al-Qaraḍāwī 2014d.

⁴⁹⁹ al-Qaraḍāwī 2014d.

⁵⁰⁰ al-Qaraḍāwī 2014b.

⁵⁰¹ al-Qaraḍāwī 2014b.

trustworthy man} (Q 28: 26). The professional qualification alone does not suffice. Rather, plenty of integrity (*al-amāna*) and moral commitment (*al-iltizām al-khulqī*) are necessary, too.⁵⁰²

The second, recurrent element that al-Qaraḍāwī invokes in his reflections on new media is “language” (*luḡha*). Although he addresses “language” in this context as a mere device (*adāt*), it is actually much more than this in his view. Being firmly grounded in its use in the Qur’an as the central vehicle of divine revelation (*tanzīl*), the Arabic language has a sacred aura and plays a constitutive role for the identity of the Muslim *umma*.⁵⁰³

Given the unique influence of new media on the formation of the individual and society, the regulation of the language of the media is thus an important issue for al-Qaraḍāwī. He argues that two points have to be taken into consideration: first, the prevention of the spread of an ungrammatical Arabic with many mistakes (*laḥn*) in grammar, morphology, expression and style; and second, the use of Classical Arabic (*fuṣḥā*) – the only language deemed suitable for use in the media – rather than colloquial Arabic (*‘ammiyya*).⁵⁰⁴

Apart from this strikingly brief reference to the professional, moral and linguistic standards on the production side, al-Qaraḍāwī’s central concern is the responsibility of the consumer of media. As the consumer “is not in a position to change any reprehensible actions (*munkarāt*, sg. *munkar*)” in the media, it is

... لابد أن يكون واعياً، بحيث يميز بين ما يصلح له وما لا يصلح له، يكون عنده (كنترول) رقابة ذاتية، [...] الإنسان هو اللي عليه.. يعني يقول هذا لا يليق وهذا يليق، [...] كما يعني نمنع أنفسنا من الأغذية المسمومة [...] أنا أرى إن الأغذية الفكرية والوجدانية هذه المسمومة، والملوثة أشد خطراً من الأغذية المادية.

indispensable that he is heedful (*wā’in*) insofar as he distinguishes between (*mayyaza*) that which is appropriate (*ṣalāḥa*) for him and that which is not appropriate for him, [so that] he has the “control” (*control*) [*sic!*], [and an ability to carry out] self-censorship (*raqāba dhātiyya*).

⁵⁰² al-Qaraḍāwī 2014b.

⁵⁰³ See e.g. al-Qaraḍāwī 2014e.

⁵⁰⁴ al-Qaraḍāwī 2014e. As Skovgaard-Petersen has highlighted, al-Qaraḍāwī’s public use of language in the media differs markedly from that of al-Sha’rāwī (d. 1998), “the most popular Islamic television star ever”: “When Sha’rawi uses ‘*ammiyya*, the vernacular, it is not because he is upset, as was the case with al-Qaradawi, but because he uses direct speech, playing the role of the prophet Joseph or some other Qur’anic figure. Or he switches to ‘*ammiyya* to break with the fictional framework and give a contemporary comment” (Skovgaard-Petersen 2004: 164). On al-Qaraḍāwī’s use of ‘*ammiyya* in *al-Sharī’a wa-l-ḥayāt*, see Kaplony 2011.

[...] The human being is the one who has to say: “This is appropriate and that is not”, [...] just as we deny ourselves poisoned food [...]. And I deem this intellectual and mental (*wajdānī*) “food”, [when it is] poisoned and soiled, more perilous than any material food.⁵⁰⁵

In this statement, al-Qaraḍāwī thus evokes the modern Muslim media consumer as an autonomous and self-regulated receiver (*mustaqbil*) who evaluates media content according to its suitability and appropriateness (*ṣalāḥiyya*), “profiting from the good and avoiding the harmful”.⁵⁰⁶ This primacy of the consumer’s autonomous self-regulation is highlighted in the broadcast discussing Islam’s view on the media, already discussed above, where al-Qaraḍāwī refers, in striking brevity, to a further element in the regulation of modern media – the role of the state:

إن الواجب في الحقيقة إن الدولة ومعظم القنوات وهذه الأشياء تملكها دول في بلادنا، فالواجب إن الدولة تتدخل أيضاً لتعمل هذا، كما نرى في قطر مثلاً الكيل، يعني يعمل نوع من الرقابة لا بأس بها، في إنه يحجز بعض الأشياء، وخصوصاً في عصرنا أصبح هناك أشياء فاضحة، ولا تليق إطلاقاً، ويعني الناس عملوها تجارة، يعني لا بد إننا عند شيء معين نقول لأ، إذا لم يحدث هذا، الإنسان هو اللي عليه.. يعني يقول هذا لا يليق وهذا يليق

It is a necessity – in reality – that the state (*dawla*) ... and in our countries, states possess the majority of the [television] channels and [similar] things ... it is a necessity that the state also interferes in order to act [upon] this. Just as we see, for instance, that the cable [television] (*kaybal*) in Qatar exercises a kind of censorship (*raqāba*). There should be no objection [to the fact] that some things are withheld, particularly in our times: nowadays some things have become disgraceful. They are not suitable at all. However, some people have made a business out of them. This means that it is inevitable that we, in a particular matter, must say “no”. When this does not happen ... the human being, he is the one upon whom ... that is to say, he must say: “This is not appropriate, and this is appropriate.”⁵⁰⁷

Although al-Qaraḍāwī thus demands that the state should censor and supervise (*raqāba*) its media, the brevity of his mention of this is striking.⁵⁰⁸ Rather, it is – again – the individual consumer whom he holds accountable.

⁵⁰⁵ al-Qaraḍāwī 2014b.

⁵⁰⁶ al-Qaraḍāwī 2014b. A straightforward definition of exactly what qualifies as “suitable” or “good” and “harmful” respectively is left unanswered in this fatwa.

⁵⁰⁷ al-Qaraḍāwī 1999g.

⁵⁰⁸ Just a few lines below, he adds that states are capable of abusing media for their own propaganda purposes (al-Qaraḍāwī 1999g).

What conclusions may we draw at this point from al-Qaraḍāwī's remarks on new media (*i'lām*), and beyond that, on media in general?

In the present and the previous chapters, I have investigated four different tools (*wasā'il*, sg. *wasīla*) by which knowledge is acquired: reading books (*qirā'a*); attending sessions of knowledge and listening (*samī'a*) to the oral speech (*mushāfaha*) of the scholar; asking sound questions (*istiftā'*); and consuming new media (*i'lām*). Al-Qaraḍāwī represents these means as powerful technologies for the transmission and acquisition of a normative knowledge (*'ilm*) located within the disciplinary tradition of *fiqh*.

Media consumption causes within the the reader (*qāri'*), the receiver or the enquirer (*mustaftī*) an epistemological transformation towards an understanding (*fahm*) of his outward actions (*af'āl ḡāhira*) in regard to their ethico-legal value. The success of this transformation, however, crucially depends on the disciplinary regulation of the production and consumption of media, simultaneously restricting and enabling the subject's epistemological transformation through them.

Among these regulations, the *self*-regulation by a conscious (*wā'in*) and autonomous reader, viewer or enquirer holds a central place. This centrality of the Muslim's inner self-regulation appears to be located at the intersection of various practices and traditions of the acquisition or consumption of knowledge: in the case of asking for a fatwa, conscience (*al-ḡamīr*) has always played a central role in Muslim normative theory.⁵⁰⁹ When it comes to the consumption of books and new media, however, the prominence of this inner dimension appears rather to be related to the rise of the liberal consumer market.

Besides being an effective and powerful tool (*wasā'il*, sg. *wasīla*) for transmitting knowledge (*'ilm*), however, new media have a second function in al-Qaraḍāwī's view: the mediation of reality. In this regard, al-Qaraḍāwī contrasts modern media like "newspapers, periodicals, magazines, official and unofficial circulars and publications" with the classical medium of Islamic scholarship, the book. Whereas the latter is assigned to the realm of knowledge, a realm seemingly detached from the reality of people's ordinary lives, modern media appear indispensable for the Muslim activist's and scholar's immersion in reality, that is, their "realist culture" (*al-thaqāfa al-wāqī'iyya*).⁵¹⁰ It is this second function that I want to focus on in the following chapters.

⁵⁰⁹ Johansen 1999.

⁵¹⁰ Or as al-Qaraḍāwī puts it: "It is not enough that the activist has acquired the Islamic sciences, roamed the authoritative references of literature, language and history and has taken his share from human and

III. The Normative Force of Reality

experimental studies, if – in spite of all of this – he does not know the world that he lives in, and what systems (*nuzum*, sg. *nizām*) are built on it, and what schools (*madhāhib*, sg. *madhhab*) rule it, and what elements move it, and what forces wrestle with one another in it, and what currents flow through it, and which hardships its people suffer from [...]" (2009b: 134).

1. Mediating Reality

الفقيه الحق من يزواج بين الواجب والواقع.

*The legal scholar is the one who marries obligation to reality.*⁵¹¹

IBN QAYYIM (d. 751/1350)

Al-Qaraḍāwī has reflected extensively upon the normative (self-)positioning of the scholar and Islamic activist vis-à-vis reality.⁵¹² In a number of longer essays that were first published in the magazine *Daʿwa* issued by the Muslim Brotherhood, and later compiled in his book *Thaqāfat al-dāʿiya*, “The Culture of the Activist”, he highlights the importance of the activist (*dāʿiya*) having an intimacy with the “reality of present life” (*wāqiʿ al-ḥayāt al-ḥāḍira*) and “the world of the people [...] inside the Islamic world and outside it” (*dākhil al-ʿālam al-islāmī wa-fī khārijihī*).⁵¹³ A similar argument is made in a later text on the position of the mufti or the legal scholar (*faqīh*), for whom – “besides mastering jurisprudence and legal deduction” – it is appropriate to have “insight into and knowledge of daily life and people”.⁵¹⁴ Or, as he puts it most concisely, citing the eight/fourteenth-century scholar Ibn Qayyim (d. 751/1350):

إن الفقيه هو من يزواج بين الواجب والواقع.

The legal scholar (*faqīh*) is the one who marries obligation (*wājib*) to reality.⁵¹⁵

The engagement with reality thus forms a crucial condition for the success of both the scholar’s ethico-legal discourse and the activist’s *daʿwa*, whereas the absence of this engagement leads to their failure and fiasco.⁵¹⁶

⁵¹¹ Ibn Qayyim al-Jawziyya 1991: 220; cited in al-Qaraḍāwī 2007c: 44.

⁵¹² E.g. al-Qaraḍāwī 2009b: 134–140; 2008c: 67–68; 1985: 48–49; 2007c: 44–46; 2011c: 18–19.

⁵¹³ al-Qaraḍāwī 2009b: 134–140. On the genealogy of *Thaqāfat al-dāʿiya*, see Tammam 2009: 61.

⁵¹⁴ al-Qaraḍāwī 2008c: 28.

⁵¹⁵ Ibn Qayyim al-Jawziyya 1991: 220; cited in al-Qaraḍāwī 2007c: 44.

⁵¹⁶ In regard to the mufti, al-Qaraḍāwī provides the following categorical formulation: “The one who lives in sensuous (*ḥissī*) and spiritual (*maʿnawī*) hermitage, not paying attention to the reality of people (*wāqiʿ al-nās*) nor taking notice of their problems, is not allowed to give a formal legal opinion (*aftā*) to the people” (2008c: 29).

In the refinement of his awareness of reality (*al-thaqāfa al-wāqī'iyya*), the media occupy a central place. As mentioned above, al-Qaraḍāwī draws a clear distinction between modern media – “newspapers, periodicals, magazines, official and unofficial rounds and publications” – and the classical book as the traditional medium of Islamic scholarship.⁵¹⁷ He assigns the latter to a presumed pure realm of scholarly erudition existing detached from ordinary people’s lives; it is the modern media that provide the scholar and activist with an insight into the mundane affairs of ordinary people. The consumption of modern media thus represents an indispensable means for cultivating and honing the scholar’s and activist’s realist culture:

لا يخفى أن هذه الثقافة لا تستمد من الكتب وحدها , فهي ثقافة نامية متجددة مستمرة , يمكن الداعية أن يجدها في الصحف والمجلات والدوريات والنشرات الرسمية وغير الرسمية. والداعية ذو العقل اليقظ , الحس المرهف يستطيع أن يأخذ مدداً جديداً من كل ما حوله من وقائع الحياة اليومية من أخبار الصحف ووكالات الأنباء , وتعليقات المعلقين , ويمكنه أن يعدّ لذلك سجلاً أو أرشيفاً , يدوّن فيه ما يهتم من هذه الوقائع والأخبار , يصنّفها ويضعها عند الحاجة في مكانها , فإن أحداث اليوم هي تاريخ الغد , الذي يدرسه الدارسون ويحلّله الناقدون. على أن لهذه الأخبار والأحداث مزية على الأحداث والأخبار الماضية , وهو جدّها وحضورها في أذهان , لهذا يكون لها أبلغ الواقع والتأثير.

As everybody knows, this [realist] culture does not derive from books alone. Rather, it is a culture that is progressive, evolving and continual that the activist is able to find in official and unofficial newspapers and journals, periodicals and [other] publications. The reasonable and vigilant, sensuous and sensitive activist (*al-dā'iya dhū al-'aql al-yaquz, al-ḥissal al-murhaf*) is able to gain new supply from everything that is around him and that pertains to the events of daily life – from the news of the newspapers and the news agencies, and the comments of commentators, enabling him to draw up for this purpose a record or an archive, recording therein the events and news that interest him, classifying them and putting them, when required, in their place. The events of today are the history of tomorrow that students will study and critics will analyse. Yet, this news and these events have an advantage over the events and the news of the past, and this is their recency and their presence in [people’s] minds. Therefore, they have a more lasting effect and influence (*al-ta'thīr*).⁵¹⁸

Engaging with reality thus entails the scholar’s engagement with modern mass media and their distinct logic of temporality, their claims of being up-to-date and their attention

⁵¹⁷ See p. 113 above.

⁵¹⁸ al-Qaraḍāwī 2009b: 139–140.

economy. In this view, the practices of following, archiving and classifying media forms a constitutive element in honing and refining the attentive activist's and legal scholar's realist culture, thereby reinforcing the impact (*ta'thīr*) both of his *da'wa* and of his ethico-legal discourse. Al-Qaraḍāwī's regular appearances on Al Jazeera can be read, by implication, as an exemplary expression of this understanding of realism and the constitutive role that the media play in the media-savvy activist's and scholar's discourses.⁵¹⁹

This ethos, however, is contrasted with a second ethical principle that is recurrent in al-Qaraḍāwī's writings: the injunction not to submit oneself to "the pressure of reality" (*khuḍū' li-ḍagħṭ al-wāqi'*).⁵²⁰ This pressure includes "the reality of global forces hostile to Islam, represented by the dreadful triangle [of] global Judaism, worldwide crusaderism and international communism"; or "evangelization", "imperialism" and "orientalism"; or "the reality of contemporary intellectual currents", like leftism and Marxism, secular liberalism and nationalism, and "the reality of dissident sections of Islam", like the Bahai and the Aḥmadiyya, who represent opponents from within.⁵²¹ Reality thus represents a constant concern to the scholar and the activist: its ongoing engagement forms simultaneously a crucial condition of success and a perpetual menace to their ethico-legal project. Whereas ignoring it, a seclusion and retreat to a world of books and of pure scholarly knowledge, leads to failure, the all-too-ready submission to its antagonistic forces can result in a similar fiasco.

⁵¹⁹ This is made evident in the anniversary episode of al-Qaraḍāwī's weekly programme *al-Sharī'a wa-l-ḥayāt* (Shari'a and Everyday Life) on Al Jazeera, where he explains the title of his programme (al-Qaraḍāwī 2006d).

⁵²⁰ al-Qaraḍāwī 2008c: 76–78.

⁵²¹ al-Qaraḍāwī 2009b: 135–140. Among the most powerful aberrations from within the Islamic movement that is unmentioned here, but that has received much attention in al-Qaraḍāwī's writings since the 1970s, is Islamic extremism and its presumed intellectual father figure, Sayyid Quṭb (d. 1966). Al-Qaraḍāwī's engagement with Quṭb, which will be summarized below, has to be put into the larger context of the Muslim Brotherhood's critical engagement with Quṭb's thought during the so-called "prison debate" following the movement's mass persecution under President Nasser (d. 1970) in 1965 (Zollner 2007). This internal debate was, in my view, crucial in shifting the organization's strategic focus away from the state as its primary target towards – as McLarney (2015) convincingly argues – more gradual tactics (*al-tadarruj*, lit. "gradualism"), targeting primarily the private sphere of the family and gendered relations, of females' bodies and of the sexual division of labour.

Gender and in particular the Muslim woman (*al-mar'a al-muslima*) have evolved into a central arena (*maydān*) for a necessary but prudent engagement with reality in al-Qaraḍāwī's publications over the past few decades.⁵²² A key notion that has germinated in his later writings for describing and evaluating this gendered reality is the notion of *jāhiliyya*.⁵²³

The concept of *jāhiliyya* has a long genealogy in modern Muslim thought. One of the most prominent Islamic thinkers and activists to apply the term to describe the reality of contemporary society at large was Sayyid Quṭb (d. 1966).⁵²⁴ Born in 1906 in the village of Mūshā in the Asyūṭ governate, Quṭb carried out his studies at the same institution as Ḥasan al-Bannā (d. 1949), the Dār al-'Ulūm.⁵²⁵ Working later as a teacher and then as an administrative officer in the Ministry of Education (*wazīrat al-ma'ārif*), he was sent on an educational mission to the United States for two years only to join the Muslim Brotherhood after his return to Egypt in 1951. Despite having initially had close ties with Gamal Abdel Nasser (d. 1970) and the Free Officers Movement during the July 1952 revolution, Quṭb soon parted with the new leaders on ideological grounds, since he believed that Islam should provide the foundation for Egypt's new regime. Soon after becoming editor-in-chief of the Brotherhood's newspaper and one of the movement's most articulate voices, Quṭb was arrested the first time in 1954 – together with al-Qaraḍāwī and other members of the Brotherhood. Following the assassination attempt on Nasser in Alexandria's Manshiyya Square, he was again arrested on 26 October 1954. In the following year, he was sentenced to fifteen years in prison. Due to the intervention by the Iraqi president 'Abd al-Salām 'Ārif (d. 1966), Quṭb was released in 1964, and started to publish his major ideas in *Ma'ālim fī al-ṭarīq* (1964), which later came to form “the ideological nucleus of modern Sunnī

⁵²² See al-Qaraḍāwī 1979: 5; 1996a: 6; 2004a: 3–5; 2008a: 3–4; 2010a: 10; 2011a: 5.

⁵²³ Al-Qaraḍāwī's central reference here is Abū Shuqqa's influential *Tahrīr al-mar'a fī 'aṣr al-risāla* (1990). For al-Qaraḍāwī engagement with and involvement in this work, see below.

⁵²⁴ As Jansen pointedly notes, “[a]ll books on modern Islam discuss Sayyid Quṭb” (1997: 118). Among them, Gille Kepel's *Muslim Extremism in Egypt* (1985: 63–69), Sivan's *Radical Islam* (1985: 21–28) and John O. Voll's *Fundamentalism in the Sunni Arab world* (1991: 368–372) are important references. In addition, numerous essays and monographs have tackled various aspects of the life and work of Quṭb. See, among others, Haddad 1983a; 1983b; Shepard 1989; 2003; Jansen 1997; Khatab 2002; 2006; Damir-Geilsdorf 2003; Musallam 2005; Calvert 2009; Toth 2013.

⁵²⁵ The summary of Quṭb's biography here is informed by Kepel 1985: 36–67; Siwan 1985: 16–49; Mousalli 1992; Tripp 1994; Jansen 1997; Damir-Geilsdorf 2003: 19–60; Musallam 2005; Calvert 2009; Toth 2013: 12–94.

fundamentalism”.⁵²⁶ On 9 August 1965, he was arrested for the third time. Accused of treason and of planning a *coup d'état*, he was sentenced to death by a military court and executed on 29 August 1966.

Al-Qaraḍāwī has extensively and – given Quṭb’s major significance for Islamism – inevitably dealt with Quṭb’s influential writings, focusing, as he puts it, on “the rectification and criticism of some of [Quṭb’s] fundamental thoughts”.⁵²⁷ One of the most prominent of these thoughts, which al-Qaraḍāwī locates in the last stage of Quṭb’s intellectual biography and with which he alleges Quṭb stood “alone in the arena of *da‘wa*”, was the idea that “the society that we live in is a *jāhili* society (*mujtama‘ jāhili*)”.⁵²⁸

The *jāhiliyya* of contemporary society rested, following al-Qaraḍāwī’s concise summary of Quṭb’s thought, on its rejection of the sovereignty of God (*ḥākimiyyat Allāh*) as the ultimate resort “in the definition of revealed and positive laws (*sharā‘i‘ wa-qawānīn*), the establishment of values and scales, or moral orders and concepts, on whose foundation life

⁵²⁶ Jansen 2011: 118. Al-Qaraḍāwī divides Quṭb’s thinking into three stages: the stage of literature and literary criticism, the stage of Islamic activism (*da‘wa islāmiyya*) and the stage of the Islamic revolution (al-Qaraḍāwī 2006a: 51–62). This tripartite division is in line with Western academics’ periodization of Quṭb’s life and thought.

⁵²⁷ al-Qaraḍāwī 1985: 186; see additionally Qaraḍāwī 1985: 186–213; 2006a: 48–69; 2008b: 230–234. Despite his critique of some of Quṭb’s thought, al-Qaraḍāwī expresses sentiments of profound sympathy and affection towards Quṭb in his texts. According to Motaz al-Khateeb, “al-Qaraḍāwī’s project counters Quṭb’s project” (al-Khateeb 2009: 194). Although al-Qaraḍāwī’s contribution to the Islamic revival might have been crucial as a counter to Quṭb, I would argue that his engagement with the latter has to be put into a larger context. Al-Qaraḍāwī’s reception of Quṭb has been analysed by Damir-Geilsdorf (2003: 324–334), and I am grateful to Ulrich Rudolph for directing my attention to her work.

⁵²⁸ al-Qaraḍāwī 1985: 186. This widely held view that Quṭb was alone in considering modern society as a *jāhili* society has been corrected, to a certain degree, by Shepard (2003). As Shepard notes, the idea of *jāhiliyya* as a contemporary condition has always been present in Muslim thought (2003: 523–524). Consequently, other earlier modern Islamist thinkers had already adopted this notion in order to describe the conditions of their time – Ibn ‘Abd al-Wahhāb (d. 1792), Muḥammad ‘Abduh (d. 1905), Rashīd Riḍā (d. 1935), Abū al-A‘lā al-Mawdūdī (d. 1979), Abū al-Ḥasan ‘Alī Nadawī (d. 1999) and Sayyid Quṭb’s brother, Muḥammad Quṭb (d. 2014), whose ideas influenced Quṭb. However, Shepard confirms that Quṭb’s engagement with this notion falls into his late radical phase, after 1964, when he published *Ma‘ālim fī al-ṭarīq* (1964), a new edition of *al-‘Adāla al-ijtima‘iyya fī al-islām* (1964) and other writings (Shepard 2003: 524).

and society progress”.⁵²⁹ From this perspective, al-Qaraḍāwī continues, Quṭb opposed contemporary society in all its dimensions:

في العقيدة أو الفكر أو السلوك ، في حياة الفرد أو الأسرة أو المجتمع ، و اعتبار كل المجتمعات القائمة في أقطار العالم - و منها الأقطار الإسلامية - مجتمعات جاهلية.

In dogma (*‘aqīda*), in thought (*fikr*) or in conduct (*sulūk*), in the life of the individual, of the family or society, he considered all existing societies in the regions of the world – and among them the Islamic regions – as *jāhili* societies.⁵³⁰

It was this “dangerous thought”, as al-Qaraḍāwī continues his reading of Quṭb, that opened the door to violence, giving rise to societies who declared millions of Muslims in the world as infidels (*takfīr*) and who fought their own people, regarding “Muslim’s blood and Muslim’s property as fair game. Because they understood the ‘There is no god but God’ [of the testimony (*shahāda*)] not in its right sense, that has – in [Quṭb’s] view – no other sense than God’s ‘sovereignty’ (*ḥākimiyya*).”⁵³¹

⁵²⁹ al-Qaraḍāwī 2008b: 231. The notion of *ḥākimiyya*, al-Qaraḍāwī has repeatedly claimed, is neither an invention of Mawḍūdī nor of Quṭb, but rather a well-established concept in Muslim thinking (al-Qaraḍāwī 2006a: 63–65; 2008b: 230). In contrast, Gomaa (1983), Arjomand (1989) and others maintain that *ḥākimiyya* is a neologism that was coined by Mawḍūdī’s Arabic translators, and that it has no counterpart in medieval Muslim thought (Akhavi 1997: 396; Arjomand 2004: 185). As George Makdisi (1963: 527) and Henri Laoust (1979: 22) have pointed out in regard to the Hanbali scholars Ibn ‘Aqīl (d. 513/1119) and Ibn Taymiyya (d. 728/1328), the idea of a space of politics outside the purview of shari‘a has a long genealogy in Muslim thinking. This insight clearly contradicts al-Qaraḍāwī’s presentation of *ḥākimiyya* as a well-established concept.

⁵³⁰ al-Qaraḍāwī 2008b: 230–231.

⁵³¹ al-Qaraḍāwī 2008b: 441. Al-Qaraḍāwī has published against these violent tendencies a number of writings. See e.g. al-Qaraḍāwī 1970a. Quṭb’s impact on violent Islamist movements in the years following his death and the reception of his ideas is more multi-layered, complex and contentious than al-Qaraḍāwī’s account suggests. Shepard, for example, relativizes the influence of Quṭb’s doctrine of *jāhiliyya* on violent movements, because it is, he argues, “too pessimistic”: “Activists prepared to risk or sacrifice their lives in the cause look, I think, for more immediate returns than Quṭb’s doctrine offers them. They want to believe that killing the *kāfir* ruler or toppling the *kāfir* regime will bring in the Islamic society in short order. The *jāhiliyya* doctrine promises them a much longer struggle. Many radicals have undoubtedly hoped that the imposing *jāhili* society could be toppled with one blow, as the Twin Towers were” (2003: 535–538). On the complex and often contentious reception of Quṭb’s ideas among various actors in Egypt, including the Muslim Brotherhood, see e.g. Kepel 1985: 59–60; Damir-Geilsdorf 2003: 249–357; Zollner 2007; Calvert 2009: 273–292.

This perspective, as al-Qaraḍāwī outlines, had decisive consequences on Quṭb's engagement with Islamic scholarship and with Muslim jurisprudence (*fiqh*) in particular.⁵³² Contemporary society first needed, in Quṭb's view, to (re-)embrace Islam and the understanding of the meaning of "There is no God but God" (*lā ilāh illa Allāh*) properly.⁵³³ Only once it had re-entered Islam by professing this dogmatic truth, was the recourse to the legal discipline of Islamic scholarship (*fiqh*) and its legal reasoning (*ijtihād*) for solving its problems legitimate.⁵³⁴ Before that occurred, Quṭb rejected any recourse to Islamic legislation in order to solve the problems of contemporary society, because "Islamic jurisprudence can only develop and respond to the issues of life in a truly Islamic society that has first and foremost submitted itself to Islam and to the sovereignty of God (*ḥākimiyyat Allāh*)".⁵³⁵

This primacy of dogma (*'aqīda*) over jurisprudence (*fiqh*) historically corresponded, al-Qaraḍāwī further outlines in his view on Quṭb's position, to the revelation of Islam in Mecca, where it kept, for the first thirteen years, "engendering the dogma in the souls, whereas the ethics (*akhlāq*) emanated from this dogma".⁵³⁶ It was only later, once a powerful state had been established in Medina, that the prescriptions of religious law were revealed and a practical system (*niẓām*) that met the real needs of Muslim society was embraced. According to al-Qaraḍāwī, this was Quṭb's argument in his *Ma'ālīm* (Milestones) – thus identifying contemporary society with the Meccan society of the *jāhiliyya*.⁵³⁷

Al-Qaraḍāwī rejects Quṭb's notion of *jāhiliyya* on several grounds.⁵³⁸ First, contemporary Muslim society is not the same as the *jāhilī* society of Mecca that Muḥammad faced when he spread the call to Islam.⁵³⁹ Whereas the latter was "a pure *jāhilī* society" (*mujtama' jāhilī ṣirf*), contemporary society – in contrast – blends elements of Islam and

⁵³² al-Qaraḍāwī 1985: 186–194. These consequences – most prominent among them, the primacy of creed (*'aqīda*) and of re-adhering to God's sovereignty (*ḥākimiyya*) over *fiqh* that emerged in Quṭb's writings from the 1950s – have been investigated among others by Damir-Geilsdorfer 2003: 111–117; Shepard 2003: 531.

⁵³³ al-Qaraḍāwī 1985: 188.

⁵³⁴ al-Qaraḍāwī 1985: 188–189.

⁵³⁵ al-Qaraḍāwī 1985: 188.

⁵³⁶ al-Qaraḍāwī 1985: 188.

⁵³⁷ al-Qaraḍāwī 1985: 188.

⁵³⁸ al-Qaraḍāwī 1985: 194–213.

⁵³⁹ al-Qaraḍāwī 1985: 195.

jāhiliyya.⁵⁴⁰ And although there are people “who clearly apostatize” – a small class of rulers and leading personalities in socialist and secularist parties – and others who merely “parade Islam in front of the people, whereas their interior is a ruin of belief (*īmān*)” – the so-called hypocrites (*munāfiqūn*) – the vast majority are “committed to Islam” with “singular devout piety. They perform the obligatory cultic practices. At times they are neglectful in some of them. Or they practice some of them reluctantly. But overall, they fear God – may He be exalted.”⁵⁴¹

Contrary to Quṭb, al-Qaraḍāwī argues that neither *fiqh* nor its specific modes of reasoning have lost their value for contemporary society. Its application (*al-taṭbīq*), however, requires a renewal of Muslim normative thinking and its rediscovery of the shari‘a’s innate capacity and flexibility (*sa‘a wa-murūna*) to adapt to all places, times and circumstances, while at the same time preserving its core of unchangeable rules.⁵⁴² To rediscover this capacity, *fiqh* requires a renewal (*tajdīd*) from within. And the first and foremost instrument to do so is *ijtihād* – the scholar’s independent legal reasoning.⁵⁴³

The second striking departure from Quṭb’s view is al-Qaraḍāwī’s restricting of the notion of *jāhiliyya* to the context of gender.⁵⁴⁴ This restriction becomes most evident in his preamble to the influential work *Tahrīr al-mar’a fī ‘aṣr al-risāla* by the Egyptian scholar and Islamic activist ‘Abd al-Ḥalīm Abū Shuqqa (d. 1995).⁵⁴⁵ In his preface, al-Qaraḍāwī describes

⁵⁴⁰ al-Qaraḍāwī 1985: 195.

⁵⁴¹ al-Qaraḍāwī 1985: 195. Al-Qaraḍāwī’s critique has decisive implications on theological grounds. He has spelled out these implications in a small but significant booklet, *Zāhirat al-ghulūw fī al-takfīr*, published in 1970, among other places. Daniel Lav (2012) provides us the larger perspective to put this text into its historical context.

⁵⁴² al-Qaraḍāwī 1997.

⁵⁴³ al-Qaraḍāwī 1997e: 80.

⁵⁴⁴ al-Qaraḍāwī’s departure from Quṭb has to be put into a larger historical context, in which leading members of the Muslim Brotherhood critically engaged with Quṭb’s intellectual legacy in the mid-1960s. This critical engagement was crucial to re-define the movement’s tactics and strategy, away from violence as a legitimate means to topple President Nasser’s un-Islamic regime towards moderation and a politics from below (Zollner 2007; 2009). This strategic shift has been reflected in several publications by al-Qaraḍāwī (e.g. al-Qaraḍāwī 1970a; 1982; 1999b).

⁵⁴⁵ Abū Shuqqa 1990: 7–25. As Ellen McLarney (2015: 70) points out, *Tahrīr al-mar’a* became a central point of reference for Islamic discourses on women’s liberation in the 1990s. According to Künkler (2004: 381), Abū Shuqqa’s work and its underlying methodology of *ḥadīth* criticism – a method that he developed together with al-Qaraḍāwī’s mentor and later teacher, Muḥammad al-Ghazālī (d. 1996) – found a reception even among

contemporary Muslim gender relations as being moulded by two contrary tendencies, which he designates in a later publication – taking up a concept of Abū Shuqqa – as two *jāhiliyyas* (*jāhiliyyatayn*) of the fourteenth/twentieth century.⁵⁴⁶

scholars in Iran. Al-Qaraḍāwī relates in his autobiographical retrospective that *Tahrīr al-mar'a* came into existence in the course of over twenty years of close cooperation and relentless discussion between the author and himself (al-Qaraḍāwī 2011a: 690). For al-Qaraḍāwī's personal account of his relation to 'Abd al-Ḥalīm Abū Shuqqa, see al-Qaraḍāwī 2011a: 687–695.

⁵⁴⁶ Abū Shuqqa 1990: 9; al-Qaraḍāwī 2008a; 2008h.

2. The Two Jāhiliyyas

فنحن نقف في هذه القضايا الحساسة عادة بين
طرفي الإفراط والتفريط

We usually stand in regard to these sensitive
affairs between the two extremes of excess
and neglect.⁵⁴⁷

AL-QARADĀWĪ

The image of a two-sided perversion and transgression of sexuality and proper gender relations has a long genealogy in al-Qaradāwī's writings that has continually evolved over the past few decades. Already in his earliest text *al-Ḥalāl* (1960), we find a reference to two opposing poles of misuse of human's innate sexual desire (*shahwa*, *gharīza*), framing Islam as a "posture of justice (*ʿadl*) and the middle way (*al-wasat*)" between them.⁵⁴⁸

In *al-Ḥalāl*, al-Qaradāwī describes the first of these two extremes as the ideology of asceticism and "the mortification [of flesh]" (*taqashshuf*), which has historically found its most vocal expression in Manichaeism and in Christian monasticism. He criticizes their doctrine of deprivation (*ḥirmān*) as representing a pessimistic rejection of life (*taṣāʾum*) that "buries the [sexual] instinct alive" (*waʿd li-l-gharīza*), hampering it and contradicting its underlying wisdom (*ḥikma*) – the continuation of life through sex.⁵⁴⁹

The second extreme position is the complete opposite. It is described as the areligious "school of libertinism" (*madhhab al-ibāḥiyya*) that gives the sexual instinct (*gharīza jinsiyya*) "free rein":

تسبح أين شاءت وكيف شاءت، بلا حدود توقفها، ولا روادع تردعها، من دين أو خلق أو عُرف. [...] وفي هذا
الموقف انحطاط بالإنسان إلى مرتبة الحيوان، وإفساد للفرد والأسرة، وللجماعة كلها.

It spreads where it wants and how it wants, without any boundaries (*ḥudūd*, sg. *ḥadd*) that restrain it nor any restrictions pertaining to religion (*dīn*), morality (*ḥulq*) or custom (*ʿurf*)

⁵⁴⁷ al-Qaradāwī 1996a: 6.

⁵⁴⁸ al-Qaradāwī 1960: 141.

⁵⁴⁹ al-Qaradāwī 1960: 141.

that check it. [...] This position implies a decay of the human being to the status of an animal, and corruption (*infisād*) for the individual, the family and for society at large.⁵⁵⁰

In his later writings and media appearances, al-Qaraḍāwī has repeatedly revisited this figure of a two-sided transgression, describing the two sides – with reference to the influential work *Tahrīr al-mar'a fī 'aṣr al-risāla* (1990) by the Egyptian scholar and Islamic activist 'Abd al-Ḥalīm Abū Shuqqa (d. 1995) – as two *jāhiliyyas* (*jāhiliyyatayn*) of the fourteenth/twentieth century.⁵⁵¹

The first *jāhiliyya* epitomizes the evils of sternness, of going too far and of the blind submission (*al-taqlīd*) to customs and habits that have been uncritically adopted from the past.⁵⁵² Historically, it is framed as emanating from the ages of backwardness (*takhalluf*) and decline (*inhiṭāṭ*) in which the ethico-legal norms on gender relations were applied with rigorous severity.⁵⁵³ According to al-Qaraḍāwī, this austere tendency has found its most salient expression in an all-too-repressive codification of women's aural, visual and bodily appearance that considers women's face, their hands and even their voices to be parts of the body which are sexually stimulating (*'awra*) and which have to be veiled and hidden from men's perceptions.⁵⁵⁴ Further, this stern tendency wrongs women and denies women's right to look (*ḥaqq al-naẓar*) at any man who is not in a degree of consanguinity which precludes marriage (*maḥram*).⁵⁵⁵ It violates women's rights in matters of marriage, restraining a woman from seeing her fiancé prior to marriage – and vice versa.⁵⁵⁶ It forces women to wed without their prior consent,⁵⁵⁷ marrying a woman off for the mere sexual pleasures (*muta'*, sg. *mut'a*) of her husband “who owns her vulva through the wealth he has

⁵⁵⁰ al-Qaraḍāwī 1960: 141.

⁵⁵¹ Al-Qaraḍāwī in the preamble to Abū Shuqqa 1990: 9; al-Qaraḍāwī 2008a; 2008h.

⁵⁵² Al-Qaraḍāwī in the preamble to Abū Shuqqa 1990: 9.

⁵⁵³ Al-Qaraḍāwī in the preamble to Abū Shuqqa 1990: 9.

⁵⁵⁴ Al-Qaraḍāwī in the preamble to Abū Shuqqa 1990: 13. In my translation of *'awra* as “that part of the body which is sexually stimulating”, I follow Judith Tucker (2008: 226).

⁵⁵⁵ al-Qaraḍāwī 1960: 159. Likewise in al-Qaraḍāwī 2010a: 30.

⁵⁵⁶ al-Qaraḍāwī 1960: 165.

⁵⁵⁷ Abū Shuqqa 1990: 11. According to al-Qaraḍāwī, “this is – unfortunately – what the Shafi'i, the Maliki and the majority of the Hanbali school stipulated, building on pieces of evidence that were not sufficiently strong for contestation nor able to withstand contrary evidence (*ḥujaj*, sg. *ḥujja*), until a man like Shaykh of Islam Ibn Taymiyya and his pupil Imam b. Qayyim dismissed them” (Abū Shuqqa 1990: 11).

spent – divorcing her whenever he wants”.⁵⁵⁸ And, reflecting more recent changes in the social fabric of Muslim society, this tendency unduly secludes women and excludes them from public spaces, dispossessing them of their right to work, to acquire knowledge or even to participate in devotional practices in the mosque, imprisoning them in their homes because of undue fear of temptation and social strife (*fitna*).⁵⁵⁹

While this first *jāhiliyya* epitomizes the vices of sternness and blind submission (*al-taqlīd*) to the past, the second *jāhiliyya* in contrast is distinguished by its libertinism (*ibāḥiyya*) and dazzled imitation of the West; a tendency that al-Qaraḍāwī associates with the perversion (*fasād*) of the human nature (*fiṭra*) and also with the disintegration of society.⁵⁶⁰ This second tendency strives to abolish the boundaries between the West and Islam and to suspend the natural differences (*fawāriq*, sg. *fāriq*) between man and woman. Its depiction is informed by the language of identity and alterity, in which the proper use of one’s innate sexuality is intimately tied to one’s belonging to the moral community of the *umma*.⁵⁶¹

While some of al-Qaraḍāwī’s censures in his later writings and media appearances apparently reflect earlier reservations in Muslim normative thinking (*fiqh*) on gender-related issues, others reverberate more obviously with the particular shifts and transitions in the political and ideological landscape of the twentieth and early twenty-first centuries, including his reflections on modernists’ demands that polygamy be abolished, capitalism’s undue exploitation of the female workforce that excludes them from the domestic realm as the natural sphere of their activities, Islamic feminists’ insistence on a female reading of the Qur’an (*tafsīr niswī*) or the international lesbian, gay, bisexual and transgender (LGBT)

⁵⁵⁸ Abū Shuqqa 1990: 9.

⁵⁵⁹ Abū Shuqqa 1990: 10; al-Qaraḍāwī 2010a: 49. As already mentioned on above, p. 40–41, Barbara Stowasser has highlighted a shift in al-Qaraḍāwī’s “intellectual focus from women’s domestic rights and obligations to their rights and obligations in the public sphere” (Stowasser 2008).

⁵⁶⁰ Abū Shuqqa 1990: 14; al-Qaraḍāwī 2010a: 51–52. As Wenzel-Teuber has poignantly remarked, Muslim critiques of imported solutions from the West transcend the writings of al-Qaraḍāwī (Wenzel-Teuber 2005: 156, n. 108). Early reformers like Jamāl al-Dīn al-Afghānī (d. 1897) and Muḥammad ‘Abduh (d. 1905) were already stressing the foreignness of Western systems and criticizing their inadequacy given the nature of the Islamic *umma*. Al-Qaraḍāwī has captured and extended these critiques to contemporary systems like socialism and liberal capitalism in a series of writings, notably in *al-Ḥulūl al-mustawrada wa-kayfa janat ‘alā ummatinā* (1977), literally “The Imported Solutions and How They Harmed Our *Umma*”, and in a plethora of other texts.

⁵⁶¹ al-Qaraḍāwī 2010a: 53.

movement's assault on the institution of marriage by advocating same-sex marriage.⁵⁶² In al-Qaraḍāwī's view, these later developments and tendencies perpetuate a misconstruction of gender relations by transgressing the normative boundaries of the shari'a, Muslim identity and human nature (*fiṭra*) alike.

Islam, from this perspective, marks the foundational core of a biopolitical counter-project that aims to fend off other projects which are seeking to co-opt gender and sexuality for their own particular visions of subjectivity and society, including pietistic asceticism and stern traditionalism, modern libertinism and – more recently – Islamic feminism. These projects jointly provide al-Qaraḍāwī the negative foil for his teleological account that depicts Islam as a middle way (*wasat*), putting divine revelation, mass-mediated reality and human nature (*fiṭra*), as part of this reality, into perfect harmony.⁵⁶³ This contention, as we shall see, is neither new nor original in Islamist thought. However, it has some decisive consequences on epistemic grounds. It is here where al-Qaraḍāwī shines as a mediator and translator of Islamist arguments into scholarly terms. This translation, however, affects al-Qaraḍāwī's scholarly engagement with the textual foundations of Islamic normative thinking (*uṣūl al-fiqh*) and his reconfiguration of its hermeneutical principles in a decisive manner. It is these critical effects that we shall track in the following chapters.

⁵⁶² al-Qaraḍāwī 1996a: 33, 99, 104, 111, 148–149.

⁵⁶³ Abū Shuqqa 1990: 14.

3. Human Nature (*Fiṭra*) and Divine Revelation - A Perfect Harmony

إن أول أسباب السكينة لدى المؤمن أنه قد هدى
إلى فطرته التي فطره الله عليها، وهي فطرة
متسقة كل الاتساق مع فطرة الوجود الكبير كله .
فعاش المؤمن مع فطرته في سلام وونام، لا في
حرب وخصام.

*The primary cause for the tranquillity of the
believer is that he has been guided to his
nature according to which God has created
him. It is a nature that is in perfect harmony
with the nature of the entirety of existence.
so that the believer lived in peace and
harmony with his nature, not in war and
adversity.*⁵⁶⁴

AL-QARAḌĀWĪ

The idea of a perfect harmony between human nature (*fiṭra*) and revelation has pervaded much of modern Muslim thinking.⁵⁶⁵ Central to this idea is the view that Islam is the “natural religion” (*dīn al-fiṭra*), and that Islamic law (*sharīʿa*) is in complete congruity with the essential needs and motivations of humankind.⁵⁶⁶ This claim has been proffered by prominent modern thinkers and activists of different strands, such as Muḥammad ‘Abduh (d. 1905),⁵⁶⁷ Sayyid Quṭb (d. 1966),⁵⁶⁸ Allāl al-Fāsī (d. 1974)⁵⁶⁹ and Sayyid Abū al-A‘lā Mawdūdī (d. 1979).⁵⁷⁰

As Frank Griffel and Andrew March have pointed out, this modern claim can be interpreted as a reflection of a longer debate that has occupied Muslim scholarship since its

⁵⁶⁴ al-Qaraḍāwī 2007e: 82–3.

⁵⁶⁵ Griffel 2007; March 2010; 2015.

⁵⁶⁶ March 2010: 189; 2015: 45. The most comprehensive study on *fiṭra* to date has been carried out by Gobillot (2000).

⁵⁶⁷ For a succinct outline of ‘Abduh’s position on the relation between human nature and revelation, see Euben 1999: 107.

⁵⁶⁸ Griffel 2007; March 2010.

⁵⁶⁹ Johnston 2007; March 2015.

⁵⁷⁰ Griffel 2007; March 2010.

formative period, and that has been revived and adapted by these thinkers to their modern contexts.⁵⁷¹ At the core of this debate stands the epistemological issue of how to acquire certain moral knowledge about matters that revelation is silent about. Although it is hard – not least due to the scarcity of sources – to establish a precise chronology, current research assumes that Muslim scholars have adopted three different positions on this issue over the course of the centuries.⁵⁷²

The first position, which has been variously discussed using terms such as “ethical objectivism”,⁵⁷³ the “permitted position”⁵⁷⁴ and “hard natural law”,⁵⁷⁵ is that of those Muslim thinkers who were convinced that human reason (*‘aql*) yielded valid moral knowledge by reflecting on human nature (*fiṭra*) and by observing the manifest world (*al-shāhid*) around them. Although this position was later ascribed to the Mu‘tazila exclusively, it was embraced by representatives of virtually all legal schools at one or another point in history.⁵⁷⁶ The position was grounded in a particular set of theological and ontological assumptions. Most central of these assumptions was the optimistic idea that God gracefully created the world for the benefit of humankind.⁵⁷⁷ Nature, by implication, ontologically reflected this divine goodness. It was being fused, as Anver Emon succinctly put it, “with both fact and value”.⁵⁷⁸ This fusion opened the way for reasoned observation and the deduction of valid moral norms that govern human nature (*fiṭra*) and the universe (*al-kawn*) at large. Reasoned reflection on nature, in other words, provided objective grounds for assessing good (*ḥusn*) and bad (*qubḥ*) in empirical terms.⁵⁷⁹

As early Muslim critiques did not fail to note, however, there were a number of structural problems associated with this position. How should one explain the proscription of those manifest things that seemed good to unaided reason, like the consumption of pork

⁵⁷¹ Griffel 2007; March 2010; 2015.

⁵⁷² This tripartite division is made by Reinhart (1995), Emon (2010) and al-Qaraḍāwī (2013), as well.

⁵⁷³ Hourani 1985: 58.

⁵⁷⁴ Reinhart 1995.

⁵⁷⁵ Emon 2010.

⁵⁷⁶ Reinhart 1995: 43.

⁵⁷⁷ Reinhart 1995: 6, 38–39.

⁵⁷⁸ Emon 2010: 21.

⁵⁷⁹ Emon 2010: 44–45. Although this position was later often ascribed to “some Greek rationalist virus” which infected original and pure Islamic thought, this position, as Reinhart suggests, is a “conservative” and, by the fourth Muslim century, even an “archaic Muslim position” (1995: 38).

or wine? Or the imposition of such “unreasonable” obligations like ritual worship or fasting?⁵⁸⁰ Further, this perspective had a decisive theological implication. According to the objectivists’ position, nature’s beneficial quality represents a constant and unchanging style of God: God only does good. Put differently: God – by virtue of His justice (‘*adl*’) – is bound to do good. This perspective, however, fundamentally undercut the notion of His divine omnipotence, since God appeared to be held obliged to reward or punish by decree, so to speak, of human reason (‘*aql*’).⁵⁸¹

To critics of this position, this line of argument consequently marked an untenable fetter on divine omnipotence. Kevin Reinhart has characterized this second and historically later position, whose centre was the school of the Mu‘tazila in Baghdad, by its pessimistic suspicion of a “world that deceives and ensnares”.⁵⁸² Its moral epistemology rested on a profound scrupulousness (*war‘*), and an ascetic austerity that was “deliberately cultivated as a religious virtue”.⁵⁸³ The core of their argument rested on the “fear that an act of unknown value *might* be an occasion of sin”.⁵⁸⁴ In their view, even possibly useful acts were subject to suspicion and aversion, since God had proscribed useful things as a test, including the consumption of wine and pork. Only revelation provided certainty.⁵⁸⁵ Unaided reason (‘*aql*’), by implication, did not know enough to recognize a possible

⁵⁸⁰ Hourani 1985: 62; Reinhart 1995: 39.

⁵⁸¹ Reinhart 1995: 39; Emon 2010: 27, 185, 193.

⁵⁸² Reinhart 1995: 31. It was only in the late third/ninth century that this tendency’s tenets were adopted by other schools, including Shafi‘ism and Hanbalism. “The fact that a number of prominent Ḥanbalīs shared doctrine with the Baghdādī Mu‘tazilī [...]”, Reinhart remarks in regard to Hourani’s (1985) earlier work, “ought to cause us to rethink the notion of a dichotomous Islamic intellectual history” (Reinhart 1995: 34). Of these different schools, only one – rather ambiguous – text has survived. This is the *‘Uddah fī uṣūl al-fiqh* by Abū Ya‘lā b. al-Farrā’ (d. 458/1066), which represents Hanbalism’s first proper work on *uṣūl al-fiqh* (Reinhart 1995: 31). This scarcity of sources allows us to reconstruct a mere “skeleton” of its proponents’ sophisticated polemics, which in addition often depends on their opponents’ account (Reinhart 1995: 33). For two seminal studies that engage with Hanbalism in modernity, see Halverson 2010; Lav 2012.

⁵⁸³ Reinhart 1995: 23, 32.

⁵⁸⁴ Reinhart 1995: 32.

⁵⁸⁵ To denote this and similar tendencies, George Hourani uses the terms “subjectivism” and “ethical voluntarism”, which he defines as “any theory to the effect that the value of things or acts is always determined solely by the opinions or emotional attitudes of some judge or observer. [...] [G]ood’, ‘right’ and similar terms have no other meaning than ‘that which God wills’” (Hourani 1985: 269, 270).

transgression,⁵⁸⁶ it could merely establish the likelihood that a specific act is lawful (*ḥalāl*) or prohibited (*ḥarām*).⁵⁸⁷ In this view, anything that was left unmentioned in the Qur'an was consequently forbidden.⁵⁸⁸ Thus, all acts were proscribed unless revelation proved their sanction – this included, according to some scholars, even the acts of eating, breathing and moving from one place to another.⁵⁸⁹

Although this pietistic position established itself as the “orthodox view of Sunni Islam”, its dominance proved – in its unadulterated form – historically unviable.⁵⁹⁰ Its rapprochement and compromise with the objectivist-rationalist position in the guise of Ash'arism provided a third way that merged reason and revelation on theological and legal-philosophical grounds.⁵⁹¹

Al-Qaraḍāwī, and other scholars along with him, have revived and adopted these debates of the early Islamic centuries to their modern context.⁵⁹² His reflections on the relation between human reason and divine revelation have occurred in different, although mutually interdependent, disciplinary fields of Muslim scholarly tradition, comprising Qur'anic exegesis (*tafsīr*),⁵⁹³ the science of hadith,⁵⁹⁴ the science of *fiqh*,⁵⁹⁵ and in more general treatises on the place of reason and knowledge in Islam.⁵⁹⁶ One of his later books *Mawqif al-islām min al-‘aql wa-l-‘ilm*, literally “Islam’s Position on Reason and Knowledge”,

⁵⁸⁶ Reinhart 1995: 33.

⁵⁸⁷ Reinhart 1995: 33.

⁵⁸⁸ Reinhart 1995: 34.

⁵⁸⁹ Reinhart 1995: 31.

⁵⁹⁰ Opwis 2010: 32.

⁵⁹¹ Hallaq 1999: 32–33; Opwis 2010: 33; Emon 2010: 123–188.

⁵⁹² See e.g. Halverson 2010; Lav 2012. One of the most prominent of these modern re-enactments of this debate took place between al-Qaraḍāwī’s mentor and later colleague, Muḥammad al-Ghazālī (d. 1996), and Salafi scholars from Saudi Arabia (Brown 1996: 108–132).

⁵⁹³ al-Qaraḍāwī 1996d; 1999d.

⁵⁹⁴ al-Qaraḍāwī 1995.

⁵⁹⁵ al-Qaraḍāwī 1992.

⁵⁹⁶ His earliest treatise on the topic is a small booklet entitled *al-Dīn fī ‘aṣr al-‘ilm*, “Religion in the Age of Knowledge” (1978). Later, he reproduced the text as a chapter of his more voluminous and polemic *Bayyināt al-ḥall al-islāmī* (1988d), literally “Proofs of the Islamic Solution”, which is directed against secularists and Westernizers (*al-mutaḡharribūn*, sg. *al-mutaḡharrib*). See additionally al-Qaraḍāwī 1980.

provides us an insight into his more mature thoughts on reason and revelation and their legitimate role in the production of valid normative knowledge.⁵⁹⁷

In a chapter on the balance between reason and revelation (*al-muwāzana bayna al-‘aql wa-l-naql*), he starts his reflections by invoking the definition of ‘aql in a number of premodern and modern lexicographic sources.⁵⁹⁸ The first source he draws on is *al-Mu‘jam al-wasīṭ*, “The Intermediate Dictionary”, which was issued by the Arabic Language Academy in Cairo in the early 1970s.⁵⁹⁹ Its definition depicts ‘aql as a viable means to control humans’ instincts (*gharā’iz*, sg. *gharīza*) and to curb their animal desires (*shahawāt*, sg. *shahwa*) – an aspect that al-Qaraḍāwī reinforces by invoking the word’s etymology:

واشتقاق العقل من مادة: (ع ق ل)، والأصل فيها: المنع. وإنما سُمِّي بذلك؛ لأنه يمنع صاحبه مما لا يليق. فإذا كان الحيوان يفعل ما يشتهى، فإن الإنسان يفعل ما ينبغي.

‘Aql is derived from the root “‘-q-l”, and the origin (*aql*) with regard to it is: to detain (*man*). Indeed, it is named that: because it detains (*yamna*) its bearer from what is not appropriate

⁵⁹⁷ al-Qaraḍāwī 2013.

⁵⁹⁸ al-Qaraḍāwī 2013. As Reinhart has pointed out, ‘aql is one of those Arabic words with a broader semantic field than the corresponding English word (1995: xi). Amir-Moezzi makes the following remarks on this issue of translation: “The ‘aql that is translated, depending on the context, by ‘reason,’ ‘intellect,’ ‘intelligence,’ or even ‘science’ or ‘discernment’ is a complex and delicate notion that covers a great semantic field, especially in the first centuries of Islam and previous to its conceptual quasi-stability after the systematization of Islamic dogmatic theology and philosophy. [...] Before the advent of Islam, it seems that the term had no special importance; it merely meant ‘good sense.’ Etymologically, ‘aql was ‘what was tied to an animal’s feet to restrain it’; its abstract meaning might thus be said to refer to that faculty that restrains human beings from foolishness. In pre-Islamic morality, ‘aql seems to have been eclipsed and even pushed into the background by the rich idea of [*h*]ilm, an attitude of tremendous importance in Arab tribal mentality that included numerous character traits ‘from serene justice and measure of longanimity and indulgence to self- control and dignity of demeanor’” (1994: 7–8).

⁵⁹⁹ According to Hassanein, the *Mu‘jam* is the product of the “collaboration between scholars and researchers who possessed a great deal of expertise in the Arabic language and in lexicography. The compilers of this work were highly regarded in their fields of study [...]. The dictionary excludes entries for archaic terms that are irrelevant for modern usage. [...] Additionally supporting data adduced in *al-Wasīṭ* are quotations from the *Qur’ān*, prophetic traditions, common literary expressions and proverbs, and established rhetorical expressions” (2008: 41).

(*mimmā lā yalīq*). When the beast does what it desires (*ishtahā*), the human being does what is appropriate.⁶⁰⁰

Second, as al-Qaraḍāwī continues, the *Muʿjam* ascribes *ʿaql* an epistemic and moral capacity:

وما يكون به التفكير والاستدلال وتركيب التصورات والتصديقات، وما به يتميز الحسن من القبح، والخير من الشر، والحق من الباطل.

It is through [*ʿaql*] that thinking and reasoning (*al-tafkīr wa-l-istidlāl*), the making of imaginations and attestations (*al-taṣawwūrāt wa-l-taṣdīqāt*) take place; and through which beauty from ugliness (*al-ḥusn min al-qubḥ*), good from evil (*al-khayr min al-sharr*), and true from false (*al-ḥaqq min al-bāṭil*) is distinguished.⁶⁰¹

The second source that he cites is *al-Qāmūs al-muḥīṭ* (The Encompassing Ocean) by the ninth/fifteenth-century lexicographer Majd al-Dīn al-Fīrūzābādī (d. 817/1414).⁶⁰² Al-Fīrūzābādī defines *ʿaql* as:

العلم، أو العلم بصفات الأشياء من حسناتها وقبحها، وكمالها ونقصانها. أو العلم بخير الخيرين، وشر الشريرين، أو مطلق الأمور.

⁶⁰⁰ al-Qaraḍāwī 2013: 126. Amir-Moezzi highlights a similar origin for the word (1994: 6–7), as noted on the previous page. Chittick provides a related etymological reading prevalent in Sufi and philosophical literature: “[S]ince the *ʿaql* ‘ties’ and ‘binds’, and since on the human plane it reflects the First Intellect, it can serve to tie and bind man to God” (1981: 91, n. 1). For a comprehensive overview of the assumed inferiority of (non-human) animals in Islamic and non-Islamic traditions in Late Antiquity, see Tlili 2012.

⁶⁰¹ *Majmaʿ al-lughā al-ʿarabiyya* 2005; al-Qaraḍāwī 2013: 126. *Ḥusn* and *qubḥ* are technical terms in *fiqh* that are normally translated as “good” and “bad”. By adding here the binary pair of *khayr* and *sharr*, however, the *Muʿjam* obviously transcends *fiqh* terminology. That’s why I have decided to translate *al-ḥusn* and *al-qubḥ* here literally as “the beauty” and “the ugly”.

⁶⁰² As Haywood puts it, the *Qāmūs* became “in modern terms, a ‘best-seller’” (1989: 237), introducing the term *qāmūs* (originally from Greek ὀκεανός) into Arabic lexicography (Baalbaki 2014: 50). It has quite an interesting history of development. Initially, al-Fīrūzābādī had the ambitious plan to combine Ibn Sīda’s (d. 458/1066) voluminous and well-organized *Muḥkam* and Ṣaghānī’s (d. 650/1252) *ʿUbāb*. However, he soon realized that this would result in a dictionary of sixty or even a hundred volumes, and thus would be inaccessible to users. Consequently, he decided to make a summary of it – his *Qāmūs* (Fleisch 1997; Baalbaki 2014: 392). For a detailed account of its development, its form and content and its later reception, see Baalbaki 2014: 391–397.

knowledge (*‘ilm*), or the knowledge of the attributes of things in regard to their goodness and their badness (*ṣifāt al-ashyā’ min ḥusnihā wa-qubḥihā*), their perfection and their imperfection (*min kamālihā wa-nuqṣānihā*). Or the knowledge of the better of two good things, and the worse of two evil things, or of unrestricted affairs (*muṭlaq al-umūr*).⁶⁰³

This definition apparently depicts *‘aql* as being acquired knowledge of the moral quality of things. However, it describes *‘aql*, as al-Qaraḍāwī critically remarks, as an act (*fi‘l*) rather than as a substance (*jawhar*).⁶⁰⁴ Subsequently, al-Qaraḍāwī argues, al-Fīrūzābādī adds a further definition as a levelling response to the former:

أنه قوّة بها يكون التمييز بين القبح والحسن.

That it is a capacity (*quwwa*) by which the distinction between evil (*al-qubḥ*) and good (*al-ḥusn*) takes place.⁶⁰⁵

In the end, al-Qaraḍāwī continues, al-Fīrūzābādī subscribes to the following definition of *‘aql*:

والحق أنه نور روحاني، به تُدرك النفس العلوم الضرورية والنظرية، وابتدأه عند اجتئان الولد (أى من المرحلة الجنينية) ثم لا يزال ينمو إلى أن يكتمل عند البلوغ.

The truth is that it is a spiritual light (*nūr ruḥānī*) through which the soul (*naḥs*) attains necessary and speculative knowledge (*al-‘ulūm al-ḍarūriyya wa-l-naẓariyya*). It starts with the embryo (that is, from the embryonic stage) and then does not cease to grow until it reaches completion with maturity.⁶⁰⁶

⁶⁰³ al-Qaraḍāwī 1996d: 162.

⁶⁰⁴ According to Reinhart, “[t]he conception of the *‘aql* as things known was a characteristic feature of Mu‘tazilī epistemology, over against the philosophers. It is quite clear that, for the Basrans, the conception that *‘aql* is neither a body (*jawhar*) nor an instrument (*ālah*), neither a sensing organ (*ḥassah*) nor a faculty (*quwwah*). It does not perceive; it does not act [...]. The *‘aql* is not a mental faculty or capacity, as reason is understood to be. [...] In this sense, what the Mu‘tazilah understood by *‘aql* was something akin to ‘common sense’ in both our workaday understanding of the term, and in the Stoic sense of the ‘common notions’” (1995: 152).

⁶⁰⁵ al-Qaraḍāwī 1996d: 163.

⁶⁰⁶ al-Qaraḍāwī 1996d: 163. As Rosenthal remarks with reference to such different figures as al-Muḥāsibī (d. 243/857) and Ibn al-Jawzī (d. 597/1201), “in Islam, the intellect (*‘aql*) is also frequently brought into connection with light” (2006: 156, n. 4). For further reflections on the nexus of reason, illumination and light

To this definition, al-Qaraḍāwī adds another that the sixth/twelfth-century scholar and exegete al-Rāghib al-Iṣfahānī (d. 502/1108) provided in his *al-Mufradāt [fī ḡharīb] al-Qurʾān*, “Terms in the Extraneous Parts of the Qurʾān”:

العقل: يقال للقوة المتهيئة لقبول العلم. ويقال للذي يستنبطه الإنسان بتلك القوة: عقل.

‘Aql: is said for the capacity (*quwwa*) which is prepared for the reception of knowledge (*‘ilm*).

And that which the human being acquires⁶⁰⁷ from that capacity is called: ‘aql.⁶⁰⁸

Finally, he invokes the renowned *Tāj al-‘arūs*, “The Bride’s Crown”, by the twelfth/eighteenth-century scholar and lexicographer al-Zabīdī (d. 1205/1790):⁶⁰⁹

أن الناس اختلفوا في العقل: هل له حقيقة تُدرك أو لا؟ وإذا كانت له حقيقة تُدرك: هل هو جوهر أو عرض؟ ثم اختلفوا في موضعه: هل هو في الرأس أو في القلب؟ وهل العقول متساوية أو متفاوتة؟

People are at variance about ‘aql.⁶¹⁰ Does it have a real substance (*ḥaqīqa*) that might be comprehended (*tudrak*), or not? And if it has a real substance that might be comprehended: is it a substance (*jawhar*) or an accident (*‘araḍ*)? Further, they disagree about its locus: is it in the head (*al-ra’s*) or in the heart (*al-qalb*)? And are the ‘uqūl equal or different?⁶¹¹

in Sufism and Muslim philosophy with particular reference to al-Ghazālī (d. 505/1111) and Ibn ‘Arabī (d. 638/1240), see Chittick 2011: 126–128. On *‘ilm ḍarūrī*, which has been variously translated as “natural” or “primary knowledge” (Wensinck 2007: 252), “immediate knowledge” (Hourani 1985: 156) or “necessary knowledge” (Abrahamov 1993), see Abrahamov 1993.

⁶⁰⁷ Both al-Qaraḍāwī and al-Zabīdī (d. 1205/1790) here read *yastanbiṭuhū* (2013: 163; 1998: 18). The various editions of al-Iṣfahānī’s *al-Mufradāt* that I consulted read *yastafīduhū*, which can likewise be translated: “that he acquires”. See e.g. al-Iṣfahānī 2010: 444. *Yastafīduhū* appears to be correct, since al-Iṣfahānī differentiates between the innate (*ḡharīzī*) and the acquired (*mustafīd*) intellect. For a discussion of al-Iṣfahānī’s concept of ‘aql, see Mohamed 1995.

⁶⁰⁸ al-Qaraḍāwī 2013: 163.

⁶⁰⁹ The most comprehensive study of al-Zabīdī’s life and work has been produced by Reichmuth (2009). For an exploration of ‘aql in al-Zabīdī’s large commentary on al-Ghazālī’s *Ihyā’ ‘ulūm al-dīn*, see Reichmuth 2009: 314–318.

⁶¹⁰ The edition of the *Tāj al-‘arūs* that I consulted reads *min jihāt*, “from a number of directions”, at this point (al-Zabīdī 1998: 20); these words are missing in al-Qaraḍāwī’s reproduction of the text (2013: 163).

⁶¹¹ al-Zabīdī 1998: 20; al-Qaraḍāwī 2013: 163.

From among these various definitions, al-Qaraḍāwī eventually gives preference (*tarjīh*) to the following one:

أن العقل حقيقة يمكن أن تُدرك، وأنه جوهر لا عَرَض، وأن موضعه هو الرأس أو الدماغ، وأن العقول تتفاوت في قدراتها [...] ونستطيع أن نقول هنا: إن العقل هو: تلك القوة أو ذلك الجوهر المجرد عن المادة، الذي ميز الله به الإنسان عن الحيوان، فيه ينظر ويتأمل في نفسه، وفي آفاق الكون من حوله، وبه يفهم الخطاب، وبه يحصل العلم، وبه ينمي ويضيف إليه، وبه يبتكر الجديد، وينتقد القديم [...] وبه يميز الخير من الشر، أو الحسن من القبيح في الأفعال، كما يميز الصواب من الخطأ في الآراء، والحق من الباطل في المعتقدات. بل يميز خير الخيرين، وشر الشرين، وبه يقارن ويوازن بين الأشياء والأشخاص والأفكار. به يدبر أمر معاشه، وبه يتدبر أمر معاده، أو قل: به يتفكر في مبدأ الكون ومصيره ومصيرنا معه، ورسالتنا فيه، وبعبارة أخرى يبحث عن أجوبة شافية للأسئلة الخالدة التي أفلقت الإنسان من قديم الزمان: من أين؟ وإلى أين؟ ولم؟

'Aql is a truth which might be comprehended (*ḥaqīqa yumkin 'an tudrak*), and it is a substance (*jawhar*) and not an accident (*'araḍ*), and its locus is the head or the brain, and the *'uqūl* vary in their capacities. [...] And we can say here that *'aql* is that force (*quwwa*) or that immaterial substance (*al-jawhar al-mujarrad 'an al-mādda*) through which God has distinguished the human being from the beast. And through which [the human being] reflects and mediates on himself, and on the visible world (*āfāq al-kawn*) around him, through which he understands the message (*al-khitāb*), through which he acquires knowledge (*'ilm*), through which he develops [his knowledge] and adds to it, through which he creates the new and criticizes the old, [...] and through which he distinguishes good (*al-khayr*) from evil (*al-sharr*), and the beautiful (*al-ḥasan*) from the repulsive (*al-qabīḥ*) in actions (*al-af'āl*), just like he distinguishes the sound (*al-ṣawāb*) from error (*al-khaṭā'*) in opinions (*al-arā'*), and true (*al-ḥaqq*) from false (*al-bāṭil*) in the tenets of faith (*al-mu'taqadāt*, sg. *al-mu'taqad*). And through which he confers distinction upon the better in two good things (*al-khayr min al-khayrayn*) and the worse in two evil things (*al-sharr min al-sharrayn*), and through which he compares (*yuqārīn*) and weights (*yuwāzin*) between things, persons and thoughts. And through which he plans the affairs of his life (*amr ma'āshihī*), and through which he reflects on the affairs of his life to come (*amr ma'ādihi*). Or say: through which he mediates (*yatafakkar*) on the beginning of the world (*mabda' al-kawn*), its destiny (*maṣīr*) and our destiny with it, and on our message in it, or in other words: he seeks for clear answers (*ajwaba shāfiya*) on the eternal questions that trouble the human being from times of old: From where? To where? And why?⁶¹²

⁶¹² al-Qaraḍāwī 2013: 164–165.

In this dense definition, al-Qaraḍāwī blends a variety of discursive traditions, including the philosophical notions of substance (*jawhar*) and accident (*‘araḍ*);⁶¹³ the physiological quest seeking whether *‘aql* resides in the heart (*qalb*) or in the brain (*dimāgh*);⁶¹⁴ its vital role in reflecting on fundamental theological and anthropological questions;⁶¹⁵ and its innate capacity to arrive at valid moral judgements on thoughts, actions and things by distinguishing good from evil.⁶¹⁶

al-Qaraḍāwī’s definition of *naql*, literally “transmission”, is, by comparison, conspicuously brief.⁶¹⁷ It lacks any explicit reference to Arabic lexicons or any other kind of literary sources. *Naql*, as he puts it, is that knowledge (*‘ilm*) which has neither been received through perception (*mulāḥaẓa*) or experience (*tajriba*), nor by empirical or logical reflection (*tafkīr manṭiqī aw riyādī*).⁶¹⁸ Its source is divine revelation (*waḥy ilāhī*). It has been variously designated as audition (*sam’*), revelation (*shar’*), religion (*dīn*) or text (*naṣṣ*), and has been transmitted from one generation to the next.⁶¹⁹ Although its transmitters believed in its divine origin (*al-maṣḍar al-rabbānī*) and obediently accepted its principles and its elementary truths, he continues, they “had the right to use reason (*‘aql*) in its understanding, its comment, its interpretation and in deducing [legal rules] from it (*al-istinbāṭ minhu*)”.⁶²⁰ As such, *naql* marks the origin of disciplines (*‘ulūm*) such as *fiqh*, Qur’anic exegesis (*tafsīr*), ethics and mysticism (*al-akhlāq wa-l-taṣawwuf*), dogmatics and theology (*‘ilm al-‘aqā’id aw ‘ilm al-kalām*) “and other sciences that established and lay their foundation on firm principles, like *uṣūl al-fiqh*, *uṣūl al-tafsīr* and *uṣūl al-ḥadīth*”.⁶²¹

⁶¹³ Van der Bergh 1965.

⁶¹⁴ In medieval Islam, the *qalb* was not perceived as “the locus of bodily lust” (Powers 2006: 35) but as “the central organ of intellect and attention” (Wensinck 1986). See on this point my remarks in n. 405, p. 89 above.

⁶¹⁵ Muslim theologians held the view that all human beings are able to acquire knowledge of God’s existence by rational means, and thus were obliged to do so. For the genealogy of this thought among pre-Mu’tazilite, Mu’tazilite, Ash’arite and Shi’ite theologians, see Madelung 1985; Wensinck 2007; van Ess 1991; 1992a; 1992b; 1997.

⁶¹⁶ For an overview over the debate in Muslim theological and legal thought, see Hourani 1985; Abrahamov 1998; Reinhart 1995; Emon 2010.

⁶¹⁷ al-Qaraḍāwī 2013: 165–166.

⁶¹⁸ al-Qaraḍāwī 2013: 165.

⁶¹⁹ al-Qaraḍāwī 2013: 165.

⁶²⁰ al-Qaraḍāwī 2013: 165.

⁶²¹ al-Qaraḍāwī 2013: 165.

According to al-Qaraḍāwī, people (*nās*) have taken three different stands on the relation between reason and revelation,⁶²² and he ascribes each stand to a particular group: “rationalists (*al-‘aqliyyūn*, sg. *al-‘aqlī*), who exaggerate in their esteem of rationality (*‘aqlaniyya*)”; “traditionalists (*al-naqliyyūn*, sg. *al-naqlī*), who exaggerate in valuing traditionalism (*naqlāniyya*)”; “and moderates (*al-mutawassiṭūn*, sg. *al-mutawassiṭ*), who combine reason and revelation (*al-‘aql wa-l-naql*) in a harmonious balance (*al-quṣṭās al-mustaqīm*)”.⁶²³

The rationalists are described as those who “sanctify reason” (*taqdīs al-‘aql*), taking it as an “infallible proof” (*dalīl lā yakhṭa’*) and as “the sole source of knowing truth” (*maṣḍar ma‘rifat al-ḥaqīqa*) both in the realm of “the material and the spiritual” (*al-māddiyya wa-l-rūḥiyya*) or “in the world of the visible or in the world of the hidden” (*fi ‘ālam al-shahāda aw fi ‘ālam al-ghayb*).⁶²⁴ This rationalist position is further subdivided by al-Qaraḍāwī into subgroups.⁶²⁵

The first subgroup of rationalists allegedly maintain that they have – thanks to reason – no need of revelation (*yastaghni bi-l-‘aql ‘an al-waḥy*) or prophecy, since it is reason alone that guides them through its light to happiness (*al-sa‘āda*).⁶²⁶ This group has been rebuffed, al-Qaraḍāwī continues, by Muḥammad ‘Abduh (d. 1905) in his *Risālat al-tawḥīd* where he highlights the need (*hāja*) of humans for the message, arguing that

الحواس تحتاج إلى العقل ليصحَّ خطأ الحواس، وكذلك هداية العقل تحتاج إلى هداية أكبر منه، لتصحَّح خطأ العقل، وهي هداية الوحي.

sensations (*ḥawāss*, sg. *ḥāssa*) need guidance from reason (*‘aql*) to correct sensations’ error. So does the guidance of reason need guidance from something bigger than itself to correct reasons error – and this is guidance by revelation (*waḥy*).⁶²⁷

The second subgroup of rationalism comprises those who believe in revelation, but either consider reason its antagonist (*nidd*), or give precedence (*muqaddam ‘alā*) to reason over

⁶²² al-Qaraḍāwī 2013: 166.

⁶²³ al-Qaraḍāwī 2013: 166.

⁶²⁴ al-Qaraḍāwī 2013: 167.

⁶²⁵ al-Qaraḍāwī 2013: 167–182.

⁶²⁶ al-Qaraḍāwī 2013: 167.

⁶²⁷ ‘Abduh 1993: 421–423; cited in al-Qaraḍāwī 2013: 167.

revelation.⁶²⁸ Al-Qaraḍāwī divides this second subgroup into two further sets. The first he identifies as “the Islamic peripatetic philosophical school” (*al-madrasa al-falsafiyya al-mashshā’iyya al-islāmiyya*),⁶²⁹ including al-Kindī (d. 252/868), al-Fārābī (d. 339/950?) and Ibn Sīnā (d. 427/1037).⁶³⁰ Their teachings and thoughts have been epitomized and refuted, according to al-Qaraḍāwī, by al-Ghazālī (d. 505/1111) in his two works *Maqāṣid al-falāsifa* and *Tahāfut al-falāsifa*; he in his turn was later refuted by Ibn Rushd (d. 595/1198) in his *Tahāfut al-tahāfut*.⁶³¹ Citing the Egyptian philosopher and his former teacher Muḥammad al-Bahī (d. 1982), al-Qaraḍāwī highlights that these philosophers did not adhere to bare and free reason (*al-‘aql al-ḥurr al-mujarrad*), but rather blended Aristotelianism with Islam.⁶³² In doing this, they uncritically adopted Greek philosophy “without detaching its naturalistic and mathematical aspects (which have now entered the sphere of natural science (*‘ilm*)) from those aspects aside from nature: ‘metaphysics’”.⁶³³

The second heterodox set which he discerns among the rationalists who believe in revelation, a set which historically preceded Islamic philosophy, is the Mu‘tazila, who have also “been designated as ‘the Qadariyya’”.⁶³⁴ Although firmly rooted in Islamic theology and acknowledging the divine provenance of the Qur’an and the sunna, their particular failing was, al-Qaraḍāwī argues, to favour reason over revelation.⁶³⁵ Their excessive and uncritical reliance on reason at the expense of revelation made some of them deny the existence of “jinn despite their obvious presence in the clear part of Qur’an (*bi-ṣarīḥ al-qur’ān*) and unbroken tradition (*mutawātir al-ḥadīth*)”; “the question of the grave and what it contains of grace and punishment (*su’āl al-qabr wa-mā fīhi min na’im wa-‘adhāb*)”; “the straight path and the balance (*al-ṣirāṭ wa-l-mīzān*)”; or “the sight of God in the hereafter (*ru’yat Allāh ta’ālā fī al-*

⁶²⁸ al-Qaraḍāwī 2013: 168.

⁶²⁹ al-Qaraḍāwī 2013: 168.

⁶³⁰ al-Qaraḍāwī 2013: 168.

⁶³¹ al-Ghazālī 1963a; al-Ghazālī 1963b; Ibn Rushd 1954; cited in al-Qaraḍāwī 2013: 168.

⁶³² al-Bahī 1962; cited in al-Qaraḍāwī 2013: 169.

⁶³³ al-Qaraḍāwī 2013: 169.

⁶³⁴ al-Qaraḍāwī 2013: 177. The research literature on the Mu‘tazila is extensive. For an overview, see e.g. Anawati/Gardet 1948; Gardet 1971; van Ess 1987; Schmidtke 1998; Hildebrandt 2007. On the Qadariyya, see van Ess 1978; Judd 2016.

⁶³⁵ al-Qaraḍāwī 2013: 177.

ākhirā)”.⁶³⁶ At this point, al-Qaraḍāwī links his critique of the Mu‘tazila to their underlying idea of nature, or rather of “divine custom (*āda*)”:

وعلة ذلك أنهم سجنوا أنفسهم في إطار العوائد الجارية، وكأنما المعتاد المعروف لازم لزوما عقليا، مع أن خرق العوائد ممكن، بدليل وقوع المعجزات للأنبياء.

And the reason for that is that they rendered themselves prisoners to present-day habits (*al-‘awā'id al-jāriya*), as if the normal and the known (*al-mu'tād al-ma'rūf*) are rational necessities (*lāzim luzūman 'aqliyyan*), although the disruption of [these] habits (*kharq al-‘awā'id*) is possible, as is evident from the occurrence of miracles performed by the prophets.⁶³⁷

The following subchapter invokes a second heterodox position that is diametrically opposed to the position of the rationalists.⁶³⁸ Al-Qaraḍāwī subsequently identifies this second position with the “neo-Zāhiriyya” (*al-zāhiriyya al-jadīda*) school of thought, which gives inordinate weight to revelation.⁶³⁹ This position’s epistemic and hermeneutical failure consists, as he outlines, in their

عدم الاهتمام بالعقل وإعطائه حقه في الفهم والاستنباط والنقد، وأخذ النقول الجزئية دون التدقيق في ثبوتها، وعدم ربطها بالمقاصد الكلية.

lack of concern for reason and for giving it its due right in understanding (*al-fahm*), deduction (*al-istinbāt*) and criticism (*al-naqd*), and in adhering to particular traditions (*nuqūl al-juz'iyya*) without scrutinizing their certainty (*thubūt*) and without linking them to the universal aims [of the shari‘a] (*al-maqāṣid al-kulliyya*).⁶⁴⁰

⁶³⁶ al-Qaraḍāwī 2013: 180.

⁶³⁷ al-Qaraḍāwī 2013: 180.

⁶³⁸ al-Qaraḍāwī 2013: 182–9. For an introduction and a critical discussion of the “neo-Zāhiriyya”, see Halverson 2010; Duderija 2011; Lav 2012. The debate between al-Qaraḍāwī and Salafi writers who attacked al-Qaraḍāwī’s legal leniency had already started in the 1960s following the publication of *al-Ḥalāl* (Caeiro/al-Saify 2009; Shaham 2015: 115, n. 3). Meanwhile, the arena has been expanded to a number of websites that fiercely condemn al-Qaraḍāwī’s views and teachings, such as www.thenoblequran.com, www.allahuakbar.net and www.salafipublications.com (Caeiro/al-Saify 2009: 142, n. 47).

⁶³⁹ al-Qaraḍāwī 2013: 182.

⁶⁴⁰ al-Qaraḍāwī 2013: 182.

While lacking the ingenious mind of Ibn Ḥazm (d. 456/1064), the major representative of the original Zāhiriyya,⁶⁴¹ the neo-Zāhiriyya adopted its precursor's

جمودها على النص، و(حرفيتها) في التفسير، ورفضها للقياس كله ولتعليل الأحكام، واعتبار أن لها مقاصد شرعية، وجكماً واقعية، تنشد من ورائها.

inflexibility in regard to the text (*jumūd 'alā al-naṣṣ*), its “literalism” (*ḥarfīyya*) in the interpretation [of the Qur'an], its rejection of reasoning by analogy (*rafḍ li-l-qiyās*) in its entirety, and of justifying rules (*ta'līl al-aḥkām*) and to consider that they have legal aims (*al-maqāṣid al-shar'iyya*), and realistic wisdoms (*ḥikam wāq'iyya*) that are aspired through them.⁶⁴²

Despite their name – *ahl al-ḥadīth* – they lack the meticulous scrupulousness and scrutiny in establishing the soundness and certainty of Prophetic traditions (*aḥādīth*, sg. *ḥadīth*), let alone the traditions' text and content (*al-matn wa-l-maḍmūn*), al-Qaraḍāwī continues in his trenchant critique.⁶⁴³ Neither do they pay due attention to the traditions' concordance with reason.⁶⁴⁴ Their one-sided preference for the hadith and their neglect of the Qur'an in legal reasoning (*fiqh*) means that they fall far behind such towering figures of scholarly erudition as Mālik (d. 179/795), Ahmad Ibn Ḥanbal (d. 241/855) or al-Bukhārī (d. 256/870), who combined knowledge of hadith with a thorough understanding of *fiqh*.⁶⁴⁵ This epistemic failure is paired with their bold immodesty “that the truth resides solely with them and falsehood with all others”, their “fierce attacks against those who contradict them” and their inability to take criticism:

يقولون: نحن معنا الحديث، وهو وحى من الله. وغيرنا معه الرأى، وهو من البشر وهذه دعوى غير مسلمة على إطلاقها، فإن من الحديث ما هو وحى، ومنه ما لا يدخل فى باب التشريع أصلاً، [...] على أن الحديث إذا كان وحياً، ففهمهم للحديث ليس وحياً، إنما هو من إفراز عقل البشر.

⁶⁴¹ On Ibn Ḥazm (d. 456/1064), see Adang et al. 2013. On the Zahiri school, see Goldziher 2010; Turki 2002; Adang 2006; Gleave 2012.

⁶⁴² al-Qaraḍāwī 2013: 182.

⁶⁴³ al-Qaraḍāwī 2013: 183. Al-Qaraḍāwī has extensively written on hadith and the methodology of hadith criticism, in three voluminous publications: 1990b; 1992; 1995. For a critical assessment of al-Qaraḍāwī's contribution to the contemporary debate among Muslim scholars and his hadith methodology based on an analysis of his *Sunna* (1995), see Brown 1996: 119–120, 121, 125–126, 131.

⁶⁴⁴ al-Qaraḍāwī 2013: 182.

⁶⁴⁵ al-Qaraḍāwī 2013: 183–184.

They proclaim: with us is the hadith, a revelation (*waḥy*) from God, while with the others is [merely] human deliberation (*ra'y*). This contention, however, is not indisputable (*ghayr musallama*). Rather, there are traditions (*min al-ḥadīth*) that have been revealed, and there are those that do not enter into the field of legislation (*al-tashrī*) at all [...]. But even if the hadith has been revealed, their understanding of this hadith is not revelation, but rather the outcome of human reason.⁶⁴⁶

In the end, al-Qaraḍāwī identifies eight inseparable attributes (*lawāzim*) that characterize this group:⁶⁴⁷ (1) their concern with form over substance (*al-shakl qabla al-jawhar*), and with literal sense over inner meaning (*al-zāhir qabla al-bāṭin*); (2) their focus on partial texts without linking them to the universal aims (*al-maqāsid al-kulliyya*) of the shari'a; (3) their attention for disagreement prior to agreement (*al-mukhtalaf fīhi qabla al-muttafaq alayhi*); (4) their disregard for ranking actions in jurisprudence (*fiqh marātib al-a'māl*), or the jurisprudence of priorities (*fiqh al-awlawiyyāt*), and thus their undue attention to supererogatory actions (*nawāfil*, sg. *nāfila*) rather than to obligations (*farā'id*, sg. *farīda*), to reprehensible affairs (*makrūhāt*, sg. *makrūh*) more than to outright prohibited ones (*muḥarramāt*, sg. *muḥarram*) and to the branches (*al-furū'*, sg. *al-far'*) more than to the roots (*al-uṣūl*, sg. *al-aṣl*); (5) their greater concern with the sunna than with the Qur'an; (6) their refusal to read the scriptural texts alongside one another and to interpret the Qur'an through the Qur'an; (7) their stern rigidity that makes them declare everything unlawful, even based on weak tradition – like photography, television, singing, women having their faces uncovered or men cutting their beards; and (8) their excess in imposing obligations, such as requiring men to shorten their garb to the mid-calf or women to wear the *niqāb*.⁶⁴⁸

Al-Qaraḍāwī finally discusses a third position, which he circumscribes with the programmatic notion of *wasāṭiyya* and which he says strikes a just balance (*tawāzun*) between the positions of the rationalists and of the “neo-Ẓāhiriyya”.⁶⁴⁹ Tellingly, he refers to a number of his own works to exemplify this intermediate position between reason and revelation.⁶⁵⁰ This third position, he says, is characterized by a number of well-established

⁶⁴⁶ al-Qaraḍāwī 2013: 184–185.

⁶⁴⁷ al-Qaraḍāwī 2013: 186–189.

⁶⁴⁸ al-Qaraḍāwī 2013: 186–189.

⁶⁴⁹ al-Qaraḍāwī 2013: 189–206. On al-Qaraḍāwī's notion of *wasāṭiyya*, see Gräf 2009a.

⁶⁵⁰ al-Qaraḍāwī 2013: 190. Al-Qaraḍāwī has outlined his definition of the *wasāṭiyya* in numerous publications, including al-Qaraḍāwī 1990b; 1994b; 1999d; 2008c.

theological and hermeneutical principles of Muslim orthodoxy, like the decisive certainty of the Qur'anic text (*qaṭ'iyyat thubūt al-naṣṣ al-qur'ānī*), that is, its preservation and unadulterated transmission from revelation to the present day;⁶⁵¹ the validation of sound traditions (*al-tathabbut min ṣiḥḥat al-ḥadīth*) according to established scientific standards (*ma'āyir 'ilmiyya*) of Muslim scholarship; further, the method's diligent application both to the hadith's chain of transmission (*isnād*) and its content (*matn*), and its rejection when the hadith contradicts an established rational truth, historical evidence or a decisive element of the Qur'an or the sunna;⁶⁵² the connection of particular texts to the universal aims [of the shari'a] (*waṣl al-nuṣūṣ al-juz'iyya bi-l-maqāṣid al-kulliyya*);⁶⁵³ the claim of absence of any contradiction between sound tradition and unadulterated reason (*lā ta'āruḍ bayna 'aql ṣarīḥ wa-naql ṣaḥīḥ*);⁶⁵⁴ the absolute belief (*al-īmān al-muṭlaq*) in the continuity of God's creation (*lā tatabaddal wa-lā tataḥawwal*) and its underlying system of causality (*shabakat al-asbāb wa-l-musabbibāt*);⁶⁵⁵ the rejection of an exaggerated belief in preternatural phenomena (*al-khawāriq*, sg. *al-khāriq*) and in fancy delusions (*al-awhām*, sg. *wahm*);⁶⁵⁶ the understanding of the sunna in the light of the Qur'an (*fahm al-sunna fī ḍaw' al-qur'ān*);⁶⁵⁷ the linking of texts together (*rabṭ al-nuṣūṣ ba'dihā bi-ba'd*);⁶⁵⁸ and finally, the infallibility of the whole *umma* from error (*'iṣmat majmū' al-umma min al-ḍalāl*).⁶⁵⁹

⁶⁵¹ al-Qaraḍāwī 2013: 190–191.

⁶⁵² al-Qaraḍāwī 2013: 191–198. This includes, al-Qaraḍāwī highlights, even hadith that are qualified as sound in the canonical collections of al-Bukhārī and Muslim. In this context, he quotes the sixth/twelfth-century polymath and Hanbali scholar Ibn al-Jawzī (d. 597/1201): “If you perceive a hadith that reason (*al-'uqūl*) opposes, that revelation (*al-nuqūl*) differs from or that the foundational principles (*al-uṣūl*) contradict, know then that it is fabricated” (Ibn al-Jawzī 1966; cited in al-Qaraḍāwī 2013: 192–193).

⁶⁵³ al-Qaraḍāwī 2013: 198–200.

⁶⁵⁴ al-Qaraḍāwī 2013: 200–201.

⁶⁵⁵ al-Qaraḍāwī 2013: 201–202.

⁶⁵⁶ al-Qaraḍāwī 2013: 201–202.

⁶⁵⁷ al-Qaraḍāwī 2013: 202–204.

⁶⁵⁸ al-Qaraḍāwī 2013: 204.

⁶⁵⁹ al-Qaraḍāwī 2013: 204–206. In the subsequent subchapters, al-Qaraḍāwī pursues a number of further reflections, including the legitimacy of disagreement (*ikhtilāf*) on textual interpretations; the elevated place of reason and rationality in Islam, where he extensively quotes the French Orientalists Maxime Rodinson and Jacques Berque; the intellect as the foundation of revelation; the Qur'anic conception of reason both as an act (*fi'l*) and a capacity (*quwwa*); the need of humans for revelation (*ḥājat al-bashar ilā al-waḥy*); and the invocation

Al-Qaraḍāwī has followed up on many of these points in separate publications that cover various fields of Muslim scholarship, including the science of hadith, Qur’anic exegesis (*tafsīr*), dogmatics and mysticism. Since each of these publications would have to be considered in its own right within its dialogical and historical context, we will focus in the following chapter on the question of how the ontological and epistemological reflections on reason and revelation (*‘aql wa-naql*) translate into al-Qaraḍāwī’s engagement with *fiqh* in general, and – in the chapter following that – how they affect his normative reflections on human’s gendered nature (*fiṭra*) in particular.

of reason by revelation and its legitimacy in the realm of creed (*‘aqīda*), legislation (*tashrī*), ethics (*akhlāq*), the universe (*al-kawn*) and life (*ḥayāt*) (2013: 221–240).

4. “Filling the Void” – Reinscribing *Fiqh* into the Public Sphere

{يُرِيدُ اللَّهُ بِكُمُ الْيُسْرَ وَلَا يُرِيدُ بِكُمُ الْعُسْرَ}

{God desires ease for you, and does not desire
hardship for you}

THE COW, Q 2: 185

According to al-Qaraḍāwī, the shari‘a contains two types of rules (*aḥkām*, sg. *ḥukm*).⁶⁶⁰ The first kind draws on Qur’anic texts and traditions (*aḥādīth*, sg. *ḥadīth*) that are decisive (*qaṭ‘ī*) both in their certainty (*thubūt*) and in their meaning (*dalāla*). He notes that this first category includes only a small portion of the Qur’an and the sunna, covering the five pillars of Islam, the prohibition of fornication (*zinā*), wine and usury, and – most significant here – the rules of marriage and inheritance.⁶⁶¹ These rules on gender, dogma (*‘aqīda*) and ritual (*‘ibādāt*) represent fixed points for the *umma* and embody its spiritual and ethical unity. Their transgression is tantamount to apostasy (*kufr*).⁶⁶²

The second kind of rules draws on texts that are either probable in certainty (*ẓannī al-thubūt*) or probable in meaning (*ẓannī al-dalāla*), or both at once. These texts represent the vast majority of the Qur’anic verses and traditions.⁶⁶³ It is here that the legitimate domain of reason (*‘aql*) and the independent engagement of qualified scholars with the foundational texts (*ijtihād*) begins.

In this domain, al-Qaraḍāwī outlines five elements of shari‘a’s “flexibility” (*murūna*).⁶⁶⁴ The first element is the universal and general nature of its rules.⁶⁶⁵ Although these rules are lasting in character (*thābit*), their particular details (*juz’iyyāt*, sg. *juz’iyya*) have been left unspecified by the authoritative texts, as these particularities are subject to continual change (*mutaghayyir*). Exempt from this general idea of change – al-Qaraḍāwī stresses repeatedly – are those matters of permanence and continuity, which include most

⁶⁶⁰ al-Qaraḍāwī 1986: 45–46; 1997e: 111; 2009c: 71–73. For academic discussions of this point, see Wenzel-Teuber 2005: 87; Gräf 2010: 160; Johnston 2011: 184.

⁶⁶¹ al-Qaraḍāwī 1986: 45; 1997e: 105–106; 2006b: 197–198; 2009c: 72.

⁶⁶² al-Qaraḍāwī 1997e: 136.

⁶⁶³ al-Qaraḍāwī 1997e: 106–107; 1986: 84; 2009: 72.

⁶⁶⁴ al-Qaraḍāwī 2009. In an earlier text, he had differentiated six “reasons” (*asbāb*, sg. *sabab*) for shari‘a’s flexibility (al-Qaraḍāwī 1986: 84–90). He later reproduced these reasons in al-Qaraḍāwī 1993: 135–204.

⁶⁶⁵ al-Qaraḍāwī 2009c: 35–44.

prominently the acts of worship (*‘ibādāt*) and matters of the family (*shu’ūn al-usra*) such as marriage, divorce and inheritance. These two domains of continuity – ritual and the family – are “the two most important affairs in life” and have been treated by the shari’a in perfect detail, thus closing the door to all illegitimate innovation (*ibtidā’*), perversion (*taḥrīf*) and controversy.⁶⁶⁶ For all other domains, the elaboration of rules is left to the independent reasoning (*ijtihād*) of the qualified Muslim scholar according to the conjunctures of his time and place.⁶⁶⁷

The second element of shari’a’s flexibility rests on the openness of the authoritative texts to different understandings and interpretations.⁶⁶⁸ This openness, al-Qaraḍāwī argues, is grounded in the ambiguous nature of language (*alfāẓ al-lughā*) itself. The various legal schools (*madhāhib*, sg. *madhhab*) and orientations that have arisen throughout Muslim history bear an eloquent testimony to language’s innate ambiguity.⁶⁶⁹

The third element consists in the shari’a’s consideration of the necessities (*al-ḍarūrāt*), needs (*ḥājāt*) and exceptional circumstances (*zurūf istithnā’iyya*) that might afflict the individual believer or Muslim society at large.⁶⁷⁰ Accordingly, the shari’a assesses these exceptional circumstances “in their true extent, and enacts exceptional rules (*aḥkām istithnā’iyya*) corresponding to them”.⁶⁷¹ These circumstances include conditions of compulsion and coercion (*ikrāh*), states of weakness and impotence (*ḍa’f wa-‘ajz*) and the

⁶⁶⁶ al-Qaraḍāwī 1986: 85; 2009c: 35.

⁶⁶⁷ A prominent example that al-Qaraḍāwī invokes for the general character of these rules is the notion of “consultation” (*shūrā*), referred to in the eponymous Qur’anic sura “Consultation” (Q 42) and in the sura “The Family of Imran” (Q 3: 159). Despite its normative character, the precise form and implementation of *shūrā* have not been further outlined by the primary texts, because “each time has its procedure, each reality has its conditions and each environment its rule (*ḥukm*)”. The normative obligation to adhere solely to one rigid and motionless form of *shūrā* would represent an adversity and unnecessary hardship for believers and run contrary to the Qur’anic principle of ease (*yusr*) and facilitation (*taysīr*). Its application and precise implementation has merely to stick to the general principles outlined in the Qur’an and is subject to independent legal reasoning (*ijtihād*) by the qualified Muslim scholar, in harmony with the particularities of his time and environment (al-Qaraḍāwī 2009: 36).

⁶⁶⁸ al-Qaraḍāwī 1986: 85; 2009c: 45–60.

⁶⁶⁹ al-Qaraḍāwī 1986: 85.

⁶⁷⁰ al-Qaraḍāwī 1986: 86; 2009c: 61.

⁶⁷¹ al-Qaraḍāwī 2009c: 61.

necessity of protecting the *umma* from harm.⁶⁷² Muslim normative thinking (*fiqh*) reflects the relevance of these types of circumstances in a number of legal maxims (*qawā'id shar'iyya*) that have been deduced from the authoritative texts, such as the idea that “hardship brings along facilitation” (*al-mashaqqā tajlib al-taysīr*) or that “necessities permit forbidden things” (*al-ḍarūrāt tubīḥ al-maḥẓūrāt*).⁶⁷³

Beyond these three elements, there exists a fourth element of shari'a's innate flexibility: “the space of forgiveness or of void” (*minṭaqaṭ al-ʿafw aw al-farāgh*).⁶⁷⁴ This realm includes all matters about which revelation is silent. This silence, al-Qaraḍāwī hastens to add, is not due to God having overlooked these matters. Neither does this realm lie beyond the reach of shari'a as such. Rather, this silence is intentional, and represents an intrinsic part of Islamic legislation, opening – as a mercy from God – a space that has to be “filled” by the independent legal reasoning of the qualified scholar (*ijtihād*).⁶⁷⁵ It is in this domain of silence where al-Qaraḍāwī revisits the classical methods and instruments (*masālik*, sg. *maslak*) of Muslim normative reasoning – *qiyās*, *istiḥsān*, *istiṣlāḥ* and *ʿurf* – in an eclectic and, as we shall see, at times original manner.

Al-Qaraḍāwī opens his methodological reflections with “the archetype of all legal argument”,⁶⁷⁶ that is, reasoning by analogy (*qiyās*), which he discusses, however, rather

⁶⁷² In connection to this last point, al-Qaraḍāwī invokes the hypothetical situation of a Muslim army that faces an enemy who uses other Muslims as human shields. Although these human shields are innocent, the Muslim army is allowed to fire on their enemy – even if it kills the human shields. This sacrifice is justified by the need to protect the existence of the *umma*, giving priority to the welfare of the many over that of the few (al-Qaraḍāwī 2009: 67–68). This example is claimed to have been developed by al-Ghazālī (d. 505/1111) (al-Ghazālī 1971: 488). It is discussed in detail by Opwis (2005: 72–73).

⁶⁷³ al-Qaraḍāwī 1986: 86; 2009c: 61–69. The latter maxim – “necessities (*ḍarūrāt*) permit forbidden things” – is one of the major principles (*mabādī*, sg. *mabda'*) that inform al-Qaraḍāwī's view of “affairs of the lawful and the prohibited”. See al-Qaraḍāwī 1994a: 39–40.

⁶⁷⁴ al-Qaraḍāwī 1986: 86; 2009c: 9–34. For a broader description of *ʿafw* in Muslim legal theory, see Hallaq 1999: 176–177. Wenzel-Teuber has pointed to the parallels and divergences that this concept has to al-Ghazālī's *al-bar'ā al-aṣliyya* (basic exemption from judgment). On the notion of *minṭaqaṭ al-farāgh* in the works of the Shi'i scholar Muḥammad Bāqir al-Ṣadr (d. 1400/1980 or 1401/1981) and its highly controversial nature in the Shi'i context, see Clarke 2001: 192; Haidar 2006: 120–123.

⁶⁷⁵ al-Qaraḍāwī 1986: 85; 2009c: 16.

⁶⁷⁶ Hallaq 2009a: 22.

briefly.⁶⁷⁷ Referring to a number of Qur’anic verses and Prophetic traditions, the prime example of the companions (*ṣaḥāba*) and the embracement of this method by the founders of all four legal schools and by the majority of the *umma*, he highlights the deep entrenchment and legitimacy of *qiyās* in the tradition of Muslim ethico-legal discourse.⁶⁷⁸

The second method of reasoning that al-Qaraḍāwī refers to is *istiḥsān* – literally, “to deem preferable”.⁶⁷⁹ This preference relates to an interpretation that departs from the usual inference by analogy (*qiyās*) because the latter would contradict the aims (*maqāṣid*, sg. *maqṣad*) of the shari‘a.⁶⁸⁰ Or, as al-Qaraḍāwī puts it:

وقد يودى اطراد القياس أحياناً إلى نتائج تأبأها مقاصد الشريعة ويُسرّها واعتدالها، فيدع المجتهد القياس مطلقاً، أو يدع القياس الجلى إلى قياس خفى، أو يدع الحكم الكلى فيستثنى منه أمراً جزئياً، لدفع مفسدة، أو تحقيق معدلة، فهذا ما يسمى “الاستحسان”.

At times, the uniformity of reasoning by analogy (*qiyās*) leads to results which are rejected by the aims of the shari‘a (*maqāṣid al-sharī‘a*), its ease (*yusr*) and its moderateness (*i’tidāl*). The legal scholar who formulates his independent legal decision (*mujtahid*) thus drops the analogy entirely. Or he skips the obvious analogy in order to turn to a hidden analogy. Or he

⁶⁷⁷ Al-Qaraḍāwī provides the following definition of *qiyās*: Reasoning by analogy (*qiyās*) “is the connection of one affair (*amr*) whose rule (*ḥukm*) has not been specified (*nuṣṣa ‘alayhi*) to another that has been specified, because there is a common underlying cause (*‘illa*) between them, in cases where there exist no weighty differences between the two affairs” (al-Qaraḍāwī 2009: 11–13). For a more extensive discussion of *qiyās*, see al-Qaraḍāwī 1985: 40–43.

⁶⁷⁸ According to Wenzel-Teuber, in al-Qaraḍāwī’s view almost all rules (*aḥkām*, sg. *ḥukm*) are justified (*mu‘allal*) by the Qur’an and sunna. They are thus rationally comprehensible: their cause (*‘illa*) – and out of their *‘illa*, their underlying wisdom (*ḥikma*) – is deducible, allowing one to draw analogies to new cases. Wenzel-Teuber argues, however, that al-Qaraḍāwī goes clearly beyond classical reasoning by analogy (*qiyās*) by identifying the wisdom (*ḥikma*) of rules with human welfare (*maṣlaḥa*). The force of this deeper wisdom (*ḥikma*) can, in al-Qaraḍāwī’s view, even override the literal sense of the text. Thus, Wenzel-Teuber concludes, al-Qaraḍāwī clearly transgresses the boundaries of analogical reasoning (*qiyās*) proper. Wenzel-Teuber refers to several examples from al-Qaraḍāwī 1982 and al-Qaraḍāwī 1997 (Wenzel-Teuber 2005: 94).

⁶⁷⁹ Kamali 2004; Rohe 2011: 64–65.

⁶⁸⁰ al-Qaraḍāwī 2009: 13. On the notion of *maqāṣid*, see above p. 77–80. According to Rohe, the recourse to *istiḥsān* instead of using *qiyās* is only one case of the application of *maqāṣid* among others, although this case is very frequent (Rohe 2011: 64).

gives up the entire rule and exempts from it a partial command (*amr juz'ī*), in order to repel a cause of harm (*mafsada*), or to realize equality (*ma'dala*). And this is called “*istiḥsān*”.⁶⁸¹

As Wenzel-Teuber has pointed out, *istiḥsān* has been a particularly debated method in Islamic legal theory (*uṣūl al-fiqh*).⁶⁸² Its controversial and even contested character might well be seen in the cautious, at times even defensive, way in which al-Qaraḍāwī introduces the method. He repeatedly denies its allegedly volatile and arbitrary character, the idea that it is merely guided by the scholar’s “passion (*hawā*) and desire without resting on a firm foundation (*aṣl*)”.⁶⁸³ At the same time, al-Qaraḍāwī appears to be well aware of the many different definitions of the method and the plurality of approaches to it.⁶⁸⁴ Nevertheless, he contends that all these different approaches share one common element: their reference to particular legal evidence (*dalīl*). Based on this, al-Qaraḍāwī clusters *istiḥsān* in four groups with regard to how it is supported: its support (*sanad*) from custom (*ʿurf*), from necessity (*ḍarūra*), from *maṣlaḥa*⁶⁸⁵ or from the alleviation of hardship (*ḥarj*).⁶⁸⁶ By striving to provide a clear-cut definitional framework for *istiḥsān*, and by subsequently grounding the method in the exemplary practice of the pious predecessors (*al-salaf al-ṣāliḥ*),⁶⁸⁷ al-Qaraḍāwī clearly seeks to expand the legitimate boundaries of independent legal reasoning (*ijtihād*) beyond the limits of reasoning by analogy (*qiyās*).

⁶⁸¹ al-Qaraḍāwī 2009: 13.

⁶⁸² Wenzel-Teuber 2005: 94.

⁶⁸³ al-Qaraḍāwī 2009: 20.

⁶⁸⁴ al-Qaraḍāwī 2009: 20.

⁶⁸⁵ On the translation of *maṣlaḥa*, see above, p. 32 n. 153.

⁶⁸⁶ al-Qaraḍāwī 2009: 21.

⁶⁸⁷ The term *salaf*, literally “predecessors” or “forefathers”, designates the first three generations of the Muslim community, whose pious deeds and acts have become normative models and authoritative references to later generations (Chaumont 1995: 900). Al-Qaraḍāwī’s use of the term in his discussion of *ijtihād* establishes a clear reference to the reform programme of the classical *salafiyya* that was inaugurated (among others) by Muḥammad ‘Abduh (d. 1905) and Rashīd Riḍā (d. 1935) in the late nineteenth and early twentieth centuries. On al-Qaraḍāwī’s indebtedness to Riḍā in his legal thinking, see Johnston 2014: 53–57. Brown (1996: 120–121) discusses Riḍā’s pioneering role in modern hadīth criticism and his influence on al-Qaraḍāwī and his teacher, Muḥammad al-Ghazālī (d. 1996).

This expansionary tendency is most perceptible – and probably most far-reaching in consequence – in the third method of reasoning that al-Qaraḍāwī discusses: *istiṣlāḥ*.⁶⁸⁸ Al-Qaraḍāwī describes *istiṣlāḥ* as a peculiarly productive space for adapting Islamic legislation to the particularities of people’s times and circumstances and to take account of their *maṣlaḥa* and needs (*ḥājāt*, sg. *ḥāja*).⁶⁸⁹ The method rests on the premise that the overall aims (*maqāṣid*) of the shari‘a are to pursue the well-being of creation (*khalq*) and the prevention of material and spiritual harm.⁶⁹⁰ Everything that leads to the realization of this aim is *maṣlaḥa*, and everything that works in the opposite direction is *mafsada*. Based on this general premise, the method allows the legal scholar (*mujtahid*) to draw on *maṣlaḥa* in his argument even where there is no particular evidence (*dalīl*) of its explicit consideration in the authoritative texts (*maṣlaḥa mursala*).⁶⁹¹

Al-Qaraḍāwī attributes the method of *istiṣlāḥ* to the legal practice of the *salaf*, that is, to the *ṣaḥāba* and the rightly guided caliphs, and – following al-Qarāfī (d. 684/1285) – goes beyond a common attribution of it to the Maliki school, to state that it is used in all legal schools, although he admits it is less frequent in the Shafi‘i school.⁶⁹²

In an electronic fatwa on “The Maṣlaḥa Mursala and the Conditions of Its Enactment” published on his website qaradawi.net, al-Qaraḍāwī highlights the importance of al-Ghazālī (d. 505/1111) and his contributions to the subject; while al-Ghazālī rejected *istiṣlāḥ* as one of the “illusory sources” (*uṣūl mawhūma*), he did provide the first clear-cut

⁶⁸⁸ al-Qaraḍāwī 2009: 23. Among the many academic contributions to the topic, Felicitas Opwis probably provides the most exhaustive discussion of *maṣlaḥa*’s genealogy and development in medieval and modern Muslim scholarship. See e.g. Hallaq 1999: 112–113, 168–174, 214–231, 261; Opwis 2005; 2007; 2010.

⁶⁸⁹ al-Qaraḍāwī 2009: 23.

⁶⁹⁰ al-Qaraḍāwī 1985: 43–47; 1993: 53–54. The classical point of reference for this argument is al-Ghazālī (d. 505/1111) (1971). On the genealogy of this argument in medieval Muslim legal thought, see, among others, Opwis 2010.

⁶⁹¹ Citing Ibn Qayyim al-Jawziyya (d. 751/1350) on this point: “The principles and fundamentals of the shari‘a concerning the injunctions and the *maṣlaḥa* of humankind in this life and the next are all based on justice, mercy, the good of man and wisdom. Every situation in which justice succumbs to tyranny, mercy to cruelty, goodness to corruption [or] wisdom to foolishness has nothing in common with the shari‘a, even if it is the result of an allegorical interpretation (*ta’wīl*)” (al-Qaraḍāwī 1985: 43; Ibn Qayyim al-Jawziyya 1991: 12). My translation of this passage is based on Khan (2006: 9).

⁶⁹² al-Qaraḍāwī 2009c: 23; al-Qarāfī 1973: 394, 466. For an extensive discussion of al-Qarāfī’s contribution to *maṣlaḥa*, see Opwis 2010: 133–155. On al-Qarāfī, see Jackson 1996.

definition of *istiṣlāḥ* and its underlying notion of *maṣlaḥa*.⁶⁹³ According to al-Qaraḍāwī, al-Ghazālī defined the term *maṣlaḥa* in his famous work *al-Mustaṣfā* as the preservation of the aims of the shari‘a (*maqāṣid al-shar‘*).⁶⁹⁴ These aims encompass the five universalities (*al-kullīyyāt al-khams*) of religion (*dīn*), life (*nafs*), rationality (*‘aql*), progeny (*nasl*) and property (*māl*), to which al-Qaraḍāwī, following al-Qarāfī (d. 684/1285), adds honour (*‘ird*).⁶⁹⁵ “Everything that is to do with the preservation of these five principles”, al-Qaraḍāwī cites al-Ghazālī, “is *maṣlaḥa*, and everything that abandons these principles is *mafsada*.”⁶⁹⁶ The preservation of these five universalities, al-Qaraḍāwī further states, corresponds to the legal category of the “necessities” (*ḍarūrāt* or *ḍarūriyyāt*), representing – above the “needs” (*ḥājīyyāt*) and the “amenities” (*taḥsīnāt*) – the highest rank within the *maṣāliḥ*.⁶⁹⁷

Al-Qaraḍāwī notes that, based on this definition, al-Ghazālī (d. 505/1111) specified a distinct set of conditions for the application of *maṣlaḥa* in ethico-legal matters where no explicit rule in the authoritative texts exists (*maṣlaḥa mursala*). These conditions are threefold. First, the *maṣlaḥa* has to relate to the five necessities (*ḍarūriyyāt*, sg. *ḍarūriyya*) – that is, religion, life, intellect, offspring or property – thus excluding the categories of mere needs (*ḥājīyyāt*) and amenities (*taḥsīnāt* or *taḥsīniyyāt*). Second, it has to be universal (*kullī*), including the whole of the Muslim community. And third, the benefit has to be of clear-cut certainty (*qaṭ‘ī*).⁶⁹⁸

However, al-Qaraḍāwī contends that al-Ghazālī advocates an all-too-narrow concept of *maṣlaḥa mursala* with this definition, imposing on it conditions that not even the

⁶⁹³ al-Qaraḍāwī 2014d. The other three illusory sources that al-Ghazālī mentions are the teachings of earlier prophets that have not been abrogated by Muḥammad, the sayings of the companions of the Prophet, and *istiḥsān* (al-Qaraḍāwī 2014d; al-Ghazālī 1971: 434, 478–506). Al-Ghazālī’s contribution to *maṣlaḥa* represents, as Felicitas Opwis puts it, “[t]he breakthrough in defining *maṣlaḥa* as a legitimate concept of lawfinding” (Opwis 2010: 65–66). Al-Ghazālī’s concept of *maṣlaḥa* has been studied by numerous authors – see, among others, Bagby 1986: 103–129; Nyazee 1995: 197–230; Hallaq 1999: 88–90, 112–113; al-Raysuni 2005: 16–21; Opwis 2010: 65–87. Opwis highlights the development of al-Ghazālī’s thinking on *maṣlaḥa* by drawing a comparison between his two major legal treatises, *Shifā’ al-ghalīl* and *al-Mustaṣfā min ‘ilm al-uṣūl*.

⁶⁹⁴ al-Ghazālī 1971: 481–482.

⁶⁹⁵ al-Ghazālī 1971: 481–482; al-Qaraḍāwī 1993: 55; 2006b: 28.

⁶⁹⁶ al-Ghazālī 1971: 481–482; al-Qaraḍāwī 1993: 55; 2006b: 28.

⁶⁹⁷ al-Ghazālī 1971: 481.

⁶⁹⁸ al-Ghazālī 1971: 489.

exemplary practices of the *salaf* meet.⁶⁹⁹ Referring to ‘Umar’s (d. 23/644) decision to divorce a woman from her husband, who had disappeared four months earlier, by appealing to the woman’s *maṣlaḥa* and the alleviation of hardship (*rafʿ al-ḥaraj*) from her, al-Qaraḍāwī claims that ‘Umar took *maṣlaḥa* into account in a case that was both particular (*juzʿī*) and only probable (*ẓannī*) – because the husband’s death had not yet been certified – and that responded merely to the woman’s needs (*ḥājīyyāt*), not to her existential necessities (*ḍarūriyyāt*).⁷⁰⁰

In order to broaden the legal-philosophical grounds for *istiṣlāḥ*, al-Qaraḍāwī suggests drawing rather on another prominent theoretician of *maṣlaḥa* – the eighth/fourteenth-century Andalusian scholar al-Shāṭibī (d. 790/1388).⁷⁰¹ In al-Qaraḍāwī’s view, al-Shāṭibī specified three different conditions for the application of *maṣlaḥa* where no authoritative text exists (*mursala*).⁷⁰² First, the *maṣlaḥa* has to be logical in itself and must not affect any rules on devotional matters or acts of worship (*ʿibādāt*), the latter being subject to unquestioned recognition. Second, it has to be consonant with the general aim (*maqṣad*) of the shariʿa in its entirety and must not contradict any of its principles or any of its definite proofs (*adilla qaṭʿiyya*). And third, it has to relate to the protection of the necessities (*amr ḍarūrī*), as defined by al-Ghazālī, or to the alleviation of hardship (*rafʿ al-ḥaraj*).⁷⁰³ Based on these three conditions, al-Qaraḍāwī derives a set of distinct arguments that allow him to broaden the use of *maṣlaḥa mursala* decisively:

فأما مرجعها إلى حفظ أمر ضروري، فهو من باب ما لا يتم الواجب إلا به. فهي إذن من الوسائل لا المقاصد.

As far as [*maṣlaḥa mursala*’s] recourse to the protection of the necessities is concerned, it pertains to the category [of tools] that “the obligation (*wājib*) can only be accomplished by

⁶⁹⁹ For a critique of this reading of al-Ghazālī’s concept of *istiṣlāḥ*, see Krawietz 2002: 256–257.

⁷⁰⁰ al-Qaraḍāwī 2009c: 30. Here, al-Qaraḍāwī overtly contradicts al-Ghazālī, who draws on the very same example but rejects the application of *istiṣlāḥ*. See al-Ghazālī 1971: 498; Opwis 2010: 74.

⁷⁰¹ al-Qaraḍāwī 2009c: 31. Al-Shāṭibī expounds his theory of *maṣlaḥa* in his four-volume work *al-Muwāfaqāt fi uṣūl al-sharīʿa*. His contribution to *maṣlaḥa* and aims of the shariʿa’s (*maqāṣid al-sharīʿa*) has received ample attention in both Western and Muslim scholarship. See, among others, Masud 1977; Hallaq 1999: 162–206; al-Raysuni 2005; Opwis 2010: 247–333. On al-Shāṭibī’s biography, see Masud 1977: 95–105; al-Raysuni 2005: 74–77.

⁷⁰² al-Qaraḍāwī 2009c: 31. He refers to al-Shāṭibī 1992: 627–635; Khallāf 1956: 84–88. For further discussion of al-Shāṭibī’s argument, see Masud 1998: 272. On ‘Abd al-Wahhāb Khallāf’s (d. 1375/1956) remarks on *maṣlaḥa*, see Hallaq 2009b: 508–511; Opwis 2007: 76–77.

⁷⁰³ al-Qaraḍāwī 2009c: 31–32.

it”. Hence, [the *maṣlaḥa mursala*] belongs to the tools (*wasā'il*, sg. *wasila*), not to the aims (*maqāṣid*, sg. *maqṣad*).⁷⁰⁴

This highly condensed argument has several implications. First, by drawing on the legal maxim “the obligation (*wājib*) can only be accomplished by it”, the consideration of *maṣlaḥa mursala* is itself rendered an obligation (*wājib*) whose refusal or omission would be a legal offence. Under this definition, however, *maṣlaḥa mursala* is depicted as a *means* – and is thus subject to change.

In his second argument for broadening the legal–philosophical grounds for *istiṣlāḥ*, al-Qaraḍāwī refers to the apodosis to the third condition under which al-Ghazālī and al-Shāṭibī consider that one can apply *maṣlaḥa* – the alleviation of hardship:

أما رجوعها إلى رفع حَرَجٍ لازم: فهو إما لاحق بالضروري، وإما من الحاجي، الذي مرده إلى التخفيف والتيسير.

As far as the recourse to the necessary alleviation of hardship (*raf ḥaraj lāzim*) is concerned, it may either be connected to a necessity (*ḍarūrī*) or pertain to a need (*ḥājī*), which is attributable to alleviation and facilitation (*al-takhfīf wa-l-taysīr*).⁷⁰⁵

Again, the point is decisive. The recourse to “the alleviation of hardship” allows him, by implication, to extend the scope of *maṣlaḥa mursala* beyond the level of necessities (*ḍarūriyyāt*) to the so-called needs (*ḥājīyyāt*), which, if neglected, do not lead to the total disruption of life’s normal order, but nevertheless inflict difficulty and hardship (*ḥaraj*). In other words, they are “needed” to alleviate hardship (*raf al-ḥaraj*). This definition enables al-Qaraḍāwī by inference to argue that human needs (*ḥājāt*) represent a legitimate grounds for the *maṣlaḥa mursala*. Al-Qaraḍāwī thus departs from what he views as al-Ghazālī’s all-too-narrow definition, by extending *maṣlaḥa mursala* to the layer of the so-called “needs” (*ḥājāt*).⁷⁰⁶

In recent years, al-Qaraḍāwī has taken this expansive reading of traditional instruments and principles of normative reasoning – thereby following a general trend in Muslim scholarship – to a new level.⁷⁰⁷ This shift has directed his attention beyond the

⁷⁰⁴ al-Qaraḍāwī 2009c: 32.

⁷⁰⁵ al-Qaraḍāwī 2009c: 32.

⁷⁰⁶ al-Qaraḍāwī 2009c: 33.

⁷⁰⁷ Johnston 2004; 2011; 2014; Duderija 2014a.

discussion of “welfare” (*maṣlaḥa*) to the more fundamental level of the *maqāṣid al-sharīʿa*, that is “the aims” or “purposes of the shari‘a”.⁷⁰⁸

A major point of reference in his reflections is – again – Abū Ḥāmid al-Ghazālī.⁷⁰⁹ In the second chapter of his monograph on the topic, *Dirāsa fī fiqh maqāṣid al-sharīʿa*, “A Study on the Jurisprudence of the Aims of Shari‘a”, al-Qaraḍāwī returns to the fifth/eleventh-century scholar by raising the following question:

هل يمكن استخدام طريقة أخرى للوصول إلى مقاصد الشريعة، غير الطريقة التي ابتكرها حجة الإسلام أبو حامد الغزالي
؟[...]

Is it possible to take another way to arrive at the aims (*maqāṣid*) [of the shari‘a] than the one first taken by the Proof of Islam (*ḥujjat al-islām*) Abū Ḥāmid al-Ghazālī [...]?⁷¹⁰

A question that he immediately answers in the affirmative.

To begin with, al-Qaraḍāwī summarizes two ways in which one can arrive at the *maqāṣid*.⁷¹¹ The first way is the recourse that the scholar has to the explicit explanations (*taʿlīl*) that some Qurʾanic verses literally provide – like the aim (*maqṣad*) of justice (*ʿadl*) in the verse {Indeed, We sent Our Messengers with the clear signs, and We sent down with them the Book and the Balance so that men might uphold justice} (Q 57: 25); or the fair distribution of income in {Whatsoever spoils of war God has given to His Messenger from the people of the cities belongs to God, and His Messenger, and the near kinsman, orphans, the needy and the traveller, so that it be not a thing taken in turns among the rich of you} (Q 59: 7). Beyond this, this first way of arriving at the aims also includes recourse to the implicit or “non-literal explanation” (*al-taʿlīl min ghayr ḥurūf*) of some Qurʾanic verses – such as the spread of mercy to all creation in {We have not sent thee, save as a mercy unto all beings} (Q 107: 21); the protection of life (*ḥimāyat al-ḥayāt*) in {In retaliation there is life for you, men possessed of minds; haply you will be God-fearing} (Q 2: 179); or the justification that the Qurʾan provides for acts of devotion (*ʿibādāt*).

⁷⁰⁸ Al-Qaraḍāwī’s major work on the topic is *Dirāsa fī fiqh maqāṣid al-sharīʿa* (2006b). Earlier works tackling the topic include al-Qaraḍāwī 1985: 43–47; 1993: 51–79; 1999d: 71–125; 2011d: 227–286. Al-Qaraḍāwī himself might add to this list al-Qaraḍāwī 1996c: 191–288, where he writes about the *ahdāf al-islām*, “the aims of Islam”.

⁷⁰⁹ al-Qaraḍāwī 2006b: 23.

⁷¹⁰ al-Qaraḍāwī 2006b: 23.

⁷¹¹ al-Qaraḍāwī 2006b: 24–25.

The second way al-Qaraḍāwī proposes for arriving at the *maqāṣid* is through a systematic exploration of “the particular rules (*aḥkām juz’iyya*) of the shari’a, following them up and mediating on them, relating them to one another, to arrive through this exploration to the universal end”. This method, he argues, has been pursued by earlier scholars like al-Ghazālī (d. 505/1111), al-Shāṭibī (d. 790/1388), al-Qarāfī (d. 684/1285) and others after them.

“But”, al-Qaraḍāwī pushes, “is there no other way to delineate the *maqāṣid*?” A way that does “not confine the *maqāṣid* to the five universalities, nor their derivations”. This other way, he suggests, has been taken by modernists and contemporary scholars, such as Rashīd Riḍā (d. 1935).⁷¹²

In al-Qaraḍāwī’s view, Riḍā proposed a different order of the *maqāṣid* that does not follow their tripartite division into necessities, needs and amenities, but rather arranges them “according to the topics that Islam is preoccupied with and the larger objectives that the Qur’an realizes in the life of the *umma*”. This led him, according to al-Qaraḍāwī, to delineate ten aims.⁷¹³

However, al-Qaraḍāwī does not elucidate Riḍā’s new finalities any further, but rather continues with the *maqāṣid* that he has himself outlined; first, the seven aims in *Kayfa nata’āmal ma’ al-qur’ān al-‘azīm?* and later – “in greater perfection” – the five aims in his *Madkhal li-mar’ifat al-islām*:⁷¹⁴ the construction of the virtuous human being (*binā’ al-insān al-ṣāliḥ*) and of the virtuous family (*usra ṣāliḥa*), the construction of a virtuous society (*mujtama’ ṣāliḥ*) and of the virtuous *umma* (*umma ṣāliḥa*), and the call for the welfare of humankind (*da’wa ilā khayr al-insāniyya*). These are, al-Qaraḍāwī concludes, five other universalities (*kulliyyāt khams*) whose realization Islam aspires and strives for.⁷¹⁵

Finally, he continues, there are other aims that are clearly *not* contained within the five universalities defined by al-Ghazālī and traditional Muslim scholarship. For him, these scholars appear to have been focussed on the welfare (*maṣlaḥa*) of the individual, and they were not immediately concerned with society, the *umma*, the state or human relations. Morality (*akhlāq*) and social values like freedom (*ḥurriyya*), equality (*musāwāh*), fraternity

⁷¹² al-Qaraḍāwī 2006b: 25–26. Al-Qaraḍāwī refers here to the fifth chapter of Riḍā 1995: 191–248.

⁷¹³ al-Qaraḍāwī 2006b: 25–26; Riḍā 1995: 191–248. For a summary and critical discussion of Riḍā’s ten *maqāṣid*, see Ibrahim 2006: 170–181.

⁷¹⁴ al-Qaraḍāwī 1996c: 191–288; 1999d: 71–125.

⁷¹⁵ al-Qaraḍāwī 2006b: 27.

(*ikhā'*), solidarity (*takāful*) and human rights (*ḥuqūq al-insān*) are thus largely absent in the traditionalists' conceptions of human necessities (*ḍarūriyyāt*) and needs (*ḥājjiyyāt*), and al-Qaraḍāwī contends they remain relegated to the amenities (*taḥsīniyyāt*) of human life.⁷¹⁶

Although al-Qaraḍāwī does not provide any conclusive definition on how to arrive at the aims of the shari'a in his text, the overall direction of his argument is apparent.⁷¹⁷ In his expansive engagement with the classical instruments of legal theory, he not only seeks to widen the legitimate grounds for a Muslim scholar's independent legal reasoning (*ijtihād*), but at the same time strives to reinscribe Islam and its normative claims into a public sphere that is marked by the ever-changing life-world of modernity, without abandoning its fixed principles: ritual and gender. In his view, Islamic jurisprudence can preserve its authority due to its inherent capacity and flexibility (*sa'a wa-murūna*) to adapt to this perpetually changing reality within certain boundaries.

This latter aspiration is particularly manifest in the fifth element of shari'a's innate flexibility, that represents, as al-Qaraḍāwī puts it, the perfection of the previous four, and their application in practice (*taṭbīq*) – the fatwa.⁷¹⁸ This fifth element, he goes on to specify, rests on the legitimacy of changing (*taghyīr*) a scholar's formal legal opinion (*fatwā*) “according to changes in time, place, condition and custom”.⁷¹⁹ In the following chapter, this fifth element will be illustrated by way of reference to a matter that has stirred much controversy in the last few decades, and which renders some of the repercussions of these shifts in Muslim legal philosophy most apparent: female genital mutilation (FGM) – or, as al-Qaraḍāwī terms it, females' circumcision (*khitān al-ināth*).

⁷¹⁶ He does, however, admit that traditionalists might have incorporated morality into the first element of the necessities (*ḍarūriyyāt*), as religion (*dīn*) includes “fundamental morals like sincerity and honesty (*ṣidq wa-amāna*), justice and charity (*ʿadl wa-iḥsān*), modesty and bashfulness (*ʿiffa wa-ḥayā*), humility and honour (*tawāḍuʿ wa-ʿizza*), compassion and kindness (*raḥma wa-rifq*), courage and generosity (*shujāʿa wa-sukhāʿ*)” (al-Qaraḍāwī 2006b: 28).

⁷¹⁷ With the openness of his argument on the *maqāṣid*, al-Qaraḍāwī in fact continues the premodern tradition (Duderija 2014b: 3).

⁷¹⁸ al-Qaraḍāwī 2009: 70–109.

⁷¹⁹ al-Qaraḍāwī 1986: 86; al-Qaraḍāwī 2009: 70–109. Al-Qaraḍāwī has developed this element in a number of later texts – see al-Qaraḍāwī 2001a: 50–52; 2008b: 86–87; 2008c; 2009a: 5–36; 2011c: 45–50; 2011e. Al-Qaraḍāwī's work on fatwas has attracted much attention in recent Western scholarship due to the fatwa's particular location between theory and practice. See Caeiro 2006; Gräf 2010.

5. Revisiting the Subject of Desire: Female Circumcision & the Right to Pleasure – Between Islamic Ethics, Natural Law and Modern Medicine

Already in the first edition of the *Encyclopaedia of Islam*, the Dutch Orientalist Arent Jan Wensinck noted the stark contrast between the marginal treatment of circumcision (*khitān*) in the books of Muslim scholarship and – referring to the observations of his compatriot and former doctoral adviser Snouck Hurgronje – the prominent value attached to it in popular discourse:

To the uneducated mass as well as to the great mass of non-Muslims, both of whom pay the greatest attention to formalities, abstention from pork, together with circumcision, have even become to a certain extent the criteria of Islam. The exaggerated estimation of the two precepts finds no support in the law, for here they are on the same level with numerous other precepts, to which the mass attaches less importance.⁷²⁰

This “reticence” of Muslim literary sources, as Berkey has observed in a more recent contribution, is complicated by a certain ambiguity in terminology:

It is possible to distinguish between male circumcision and female excision by employing the term *khitān* to refer to the former, and, for the latter, *khafḍ* or *khifāḍ*, the root verb [...] which means to lower, depress, or abase and, by extension, to make gentle, easy to deal with, compliant. In fact, however, *khafḍ* and *khifāḍ* appear relatively rarely in the source literature. More often, the verb *khatana* and its derivatives are used for circumcision in a generic sense, much as treatments of the subject in English often use the word “circumcision” indiscriminately, which sometimes makes it difficult to know whether sources discussing *khitān* are referring to male circumcision or what is more properly referred to as clitoridectomy, or female excision, or both.⁷²¹

According to Kecia Ali, the debate over whether or not circumcision (*khitān*) – and female circumcision in particular – is “Islamic” is specifically modern.⁷²² Its emergence and later

⁷²⁰ Hurgronje 1913: 30; Hurgronje/Wensinck 1923: i, 402. The marginality of the topic in treatises of Muslim legal scholarship in the past and the present is highlighted by Bouhdiba (2003: 175) and also Badry (1999: 215).

⁷²¹ Berkey 1996: 20. It appears that this ambiguity was deliberately exploited by some medieval commentators in their discussions of the practice (Berkey 1996: 25).

⁷²² Ali 2015: 99.

development, she argues, have been decisively shaped by the larger context of Western colonial scrutiny and criticism, of which Wensinck, and even more so Snouck Hurgronje, Adviser on Native Affairs to the colonial government of the Netherlands East Indies, formed constitutive parts.⁷²³

Western opposition to female genital mutilation or female genital cutting⁷²⁴ has a long genealogy. Religiously motivated campaigns to eradicate the practice took place as early as the seventeenth century⁷²⁵ In the 1920s and 1930s, colonial crusades to abolish the “barbaric” custom stirred fierce resistance “that idealized both local culture and female genital cutting”⁷²⁶ and made the circumcised female body a symbol of emergent nationhood.⁷²⁷

In the postcolonial period, the “global campaign”⁷²⁸ against female genital mutilation has been re-launched with the first conference on female circumcision organized by the World Health Organization (WHO) in 1979.⁷²⁹ International governmental organizations have rooted their position against the practice in health justifications.⁷³⁰ Despite these health-based approaches being given credit for legitimizing international intervention into national politics without overtly undermining the sovereignty of the postcolonial nation-state, health-based campaigns against female genital mutilation have

⁷²³ Ali 2015: 99.

⁷²⁴ As Hernlund and Shell-Duncan remark, the terms “female genital mutilation” (FGM), “female genital cutting” (FGC) and “female circumcision” (FC) casually encapsulate a variety of practices which are performed in different parts of the world in distinct and complex ritual contexts (2007: 2) According to the World Health Organization, female genital mutilation refers to any “injury to the female genital organs for non-medical reasons” (WHO 2010: 10): “The word ‘mutilation’ emphasizes the gravity of the act. Some United Nations agencies use the term ‘female genital mutilation/cutting’ wherein the additional term ‘cutting’ is intended to reflect the importance of using non-judgemental terminology with practising communities. Both terms emphasize the fact that the practice is a violation of girls’ and women’s human rights” (WHO 2010: v).

⁷²⁵ Mackie 1996.

⁷²⁶ Boyle, Elizabeth Heger et al. 2001: 528.

⁷²⁷ Boddy 2007: 242.

⁷²⁸ The American anthropologist Richard Shweder defines this campaign as an international movement “with the aim of creating and enforcing universal norms according to which any socially endorsed surgical alteration of the genitals of a female child or adolescent is defined as either a) an intolerably harmful cultural practice, or b) an obvious and impermissible violation of human rights, or both” (2005: 182).

⁷²⁹ Hernlund/Shell-Duncan 2007: 13.

⁷³⁰ Boyle, Elizabeth Heger et. al. 2001: 528.

experienced severe critiques from anti-circumcision activists. The latter argue that by merely targetting health-related and medical issues, health-related approaches do unintentionally promote less severe forms of the practice and, as a consequence, undermine other interventions that are designed to eradicate the practice entirely.⁷³¹

Since the early 1990s, a reassessment and gradual shift away from medical concerns has taken place, reframing discourses against female genital mutilation in the language of human rights, the rights of children and of women, the right to be free from torture or the right to bodily and sexual integrity.⁷³²

Al-Qaraḍāwī's writings on the topic of female genital mutilation – or the circumcision of females (*khitān al-ināth*), as he labels the practice – indirectly reflect these shifts and changes in the larger global context. This becomes most apparent when his texts are put into a comparative perspective.

Already in the first volume of his fatwa collection *Min hady al-islām*, al-Qaraḍāwī issued a legal opinion on “the genital cutting of girls” (*khitān al-banāt*) which opens with a remarkably brief question:

س : ما حكم الإسلام في ختان البنات؟

Q[UESTION]: What is the rule of Islam (*ḥukm al-islām*) on the circumcision of girls (*khitān al-banāt*)?⁷³³

In his reply, al-Qaraḍāwī highlights the strong controversy and disagreement (*ikhtilāf*) that surrounds the practice, including the contrary voices and opinions of those scholars and doctors (*‘ulamā’ wa-aṭibbā’*) who support it and those who oppose it.⁷³⁴ Within this controversial battlefield (*ma‘raka jadaliyya*), he subsequently frames his own position as one

⁷³¹ For a thorough discussion of these arguments against medicalization, see Hernlund/Shell-Duncan 2007: 14–26.

⁷³² Hernlund/Shell-Duncan 2007: 26 According to Boyle, Songora and Foss, it was mostly under pressure from non-governmental organizations and feminists “that international governmental organizations eventually came to characterize female genital cutting as a violation of women’s rights” (2001: 528).

⁷³³ al-Qaraḍāwī 2009a: 443.

⁷³⁴ al-Qaraḍāwī 2009a: 443.

of moderation and intermediateness – advocating in the end a slight form of circumcision (*khitān khafīf*):

ولعل أوسط الأقوال وأعدلها وأرجحها، وأقربها إلى الواقع، وإلى العدل في هذه الناحية، هو الختان الخفيف

Maybe the most moderate (*awṣat*) statement, and the one most equitable (*a'dal*), most preferable (*arjah*), closest to reality (*al-wāqī'*) and to justice (*'adl*) in this regard, is the slight circumcision (*khitān khafīf*).⁷³⁵

His support of this opinion rests upon a tradition (*ḥadīth*) that has been repeatedly invoked by Muslim jurists despite its contested character due to the obscurity and questionable character of its genealogy.⁷³⁶ In this hadith, the Prophet advises the midwife Umm 'Aṭiyya on the way in which a woman should be circumcised.⁷³⁷ The tradition runs as follows:

أسمى ولا تنهكي.. فإنه أنضر للوجه، وأحظى عند الزوج.

*Ashimmī wa-lā tanhakī.. fa-innahū anḍar li-l-wajh wa-aḥẓā 'ind al-zawj.*⁷³⁸

As Kecia Ali has remarked in her critical review of contemporary English-language translations of the text, many of these translations “often do much of the work of interpretation”.⁷³⁹ A pamphlet by the Minaret of Freedom Institute, a liberal Muslim think tank in Bethesda, for example, explains the command *lā tanhakī* – which might be more literally rendered “do not ruin” or “do not uproot” – as the “removal of a miniscule segment of skin from the female prepuce”.⁷⁴⁰ The Canadian–Egyptian scholar Jamal Badawi,

⁷³⁵ al-Qaraḍāwī 2009a: 443.

⁷³⁶ Its sole redactor among the six Sunni canonical collections, Abū Dāwūd al-Sijistānī (d. 275/888–889), qualifies its chain of transmission as weak (*ḍa'īf*) (2009: 541, n. 5271). Nevertheless, it has been included in later collections and transmitted in various versions (Berkey 1996: 28).

⁷³⁷ In another version of the hadith recorded by al-Bayhaqī, 'Umm 'Aṭiyya merely reports the Prophet's words, but is not identified as the circumciser (2003: 562; Berkey 1996: 36).

⁷³⁸ al-Qaraḍāwī 2009a: 443. The phrase *lā tanhakī* is sometimes vocalized *lā tunhikī* (Berkey 1996: 37). Al-Qaraḍāwī does not provide a vocalization in his fatwa collection; in his later publication on the topic, he uses the former vocalization (2007a: 8, 11).

⁷³⁹ Ali 2015: 106.

⁷⁴⁰ Ahmad 2016; Ali 2015: 106.

in the appendix to his frequently quoted book *Gender Equity in Islam*, makes several interpolations that are absent in the Arabic text, effecting a similar semantic shift:

Cut off only the foreskin (outer fold of skin over the clitoris; the prepuce) but do not cut off deeply (i.e. the clitoris itself) for this is brighter for the face (of the girl) and more favourable with the husband.⁷⁴¹

Interestingly, al-Qaraḍāwī's linguistic explanation of the hadith in Arabic points in a similar direction. "*Ishmām*", he explains, "is decrease (*al-taqlīl*), and *lā tanhakī* is to say do not excise (*lā tasta'ṣili*)".⁷⁴² His argument for a restricted and limited form of female circumcision, however, is given a subtle refinement. Highlighting the deplorable conditions of "our present times" (*aṣrunā al-ḥāḍir*), he expresses his overall support for the practice in order to protect the morality of girls, thus making an implied connection between female circumcision and women's chastity explicit.⁷⁴³ This ambivalence between restricting the practice, on the one hand, and supporting it by virtue of its moral necessity, on the other, is likewise reflected in his final legal assessment. Qualifying the circumcision of girls as a noble deed (*makrūma*), he restrains both from representing it as an obligation whose neglect is punishable, and from proscribing it as a prohibited act:

من رأى أن ذلك أحفظ لبناته فليفعل، وأنا أؤيد هذا، وخاصة في عصرنا الحاضر، ومن تركه فلا جناح عليه لأنه ليس أكثر من مكرمة للنساء، كما قال العلماء، وكما جاء في بعض الآثار.

The one who deems that [i.e., circumcision] more preserving for his daughters: let him perform it. And I endorse (*ayyada*) this, particularly in our present times. And the one who abstains from it: it won't be held against him (*lā junāḥ 'alayhi*), because it is not more than a noble deed (*makrūma*) for women, just as the scholars say, and just as is mentioned in some reports (*āthār*, sg. *athar*).⁷⁴⁴

⁷⁴¹ Badawi 1995: 49.

⁷⁴² al-Qaraḍāwī 2009a: 443.

⁷⁴³ al-Qaraḍāwī 2009a: 443.

⁷⁴⁴ al-Qaraḍāwī 2009a: 443. In the final paragraph of the fatwa, al-Qaraḍāwī refers to male circumcision (*al-khiṭān li-l-dhukūr*). The latter belongs, he argues, to "the cultic practices of Islam (*min sha'ā'ir Allāh*)" and is "a customary characteristic of the Islamic *umma* (*sunna mumayyiza li-ummat al-islām*)" that has to be defended and preserved, even by means of force and violence if necessary (2009a: 443).

Al-Qaraḍāwī's "moderate" hermeneutics and his ambivalence towards the practice, in the end relegating the final decision to parental authority, is admittedly neither unique nor entirely new. Medieval Muslim jurists were already drawing on the very same tradition to conceive of female circumcision as a limited tradition, while permitting it in general.⁷⁴⁵ As Berkey convincingly argues, their ambivalence was rooted in a more fundamental ambiguity towards sexual desire, and women's sexual passion in particular.⁷⁴⁶

On the one hand, the naturalness and legitimacy of women's sexual desire and the right to its satisfaction has been an accepted component in the thinking of Muslim jurists, theologians and *littérateurs* since the medieval period.⁷⁴⁷ This desire, however, had to be channelled into particular, licit categories that confined it to certain specified, circumscribed and limited situations.⁷⁴⁸ Unchecked instincts, in contrast, were thought to lead to *fitna*: seduction, rebellion and chaos.⁷⁴⁹

Marriage was perceived as the place par excellence for rightful sexual satisfaction and mutual fulfilment through emotional and physical intimacy.⁷⁵⁰ Within its framework, issues such as sexual communication, sexual roles and women's sexual pleasure could be addressed without stigmatization.⁷⁵¹ Conjugal sex was positioned as an important and positive aspect of and a core principle that organized married life, transcending the mere purpose of procreation.⁷⁵² In the genre of "Prophetic medicine" (*al-ṭibb al-nabawī*), for example, writers expounded in great detail the particular steps a husband had to take to satisfy his wife's sexual desires.⁷⁵³ Berkey further illustrates this positive attitude to

⁷⁴⁵ Berkey 1996.

⁷⁴⁶ Berkey 1996.

⁷⁴⁷ Berkey 1996: 33. This led the French legal scholar and Orientalist Georges-Henri Bousquet to ascribe to Islam, in contrast to Christianity, "eine bejahende Sexualethik" which said "oui" à la sexualité et à sa satisfaction" (1953: 39).

⁷⁴⁸ Berkey 1996: 33.

⁷⁴⁹ Obermeyer 2000: 241.

⁷⁵⁰ Bennett 2005: 107.

⁷⁵¹ Khoei et al. 2008: 244.

⁷⁵² Bennett 2005: 107; Khoei et al. 2008: 244. As Bennett observed during her fieldwork in Indonesia, "this understanding of a satisfying sexual union as crucial to a successful marriage is popular in liberal Islamic interpretations of the Qur'an and *ḥadīth*. Muslim women in Mataram openly assert that sexual satisfaction in marriage is a right according to their religion, which is a position supported by many Islamic scholars who discuss conjugal sexuality" (2005: 47).

⁷⁵³ Berkey 1996: 33.

married women's desire by reference to Muslim jurists' discussions of impotence and coitus interruptus ('azl):

A woman's right to sexual satisfaction was not illusory. Some jurists held that a man could perform coitus interruptus with his wife only with her consent, and others saw in a man's impotence grounds on which a wife could legitimately seek divorce. To be sure, these provisions of the law were directed in large part at a free, married woman's right to bear children, but the jurists also considered favourably her right to sexual satisfaction from her husband, and because some assumed that coitus interruptus, let alone impotence, was harmful to her in that regard, they insisted on her approval in advance.⁷⁵⁴

This argument, as Kutscher remarks, still resonates in contemporary fatwas on such popular websites as IslamiCity.org, where "*muftis* state that 'Islamic law protects a woman's right to sexual enjoyment, as demonstrated by the fact that a woman has the right to divorce on the grounds that her husband does not provide sexual satisfaction'".⁷⁵⁵ This positive attitude, however, has been attenuated by certain critical assumptions.

As early as the first/sixth century, the Byzantine court physician Aetius of Amida described female excision as practised by the Egyptians as an attempt to reduce women's "desire for copulation".⁷⁵⁶ As the rationale behind the radical measure, he identified the increased growth of Egyptian women's clitorises and the continual excitement and desire for copulation this caused, thus making it necessary to surgically "limit their sex drive by limiting the physical pleasure which they can receive from sexual intercourse".⁷⁵⁷

Admittedly, such fantasies about the physical oddity of Middle Eastern women were still shared by more enlightened Europeans. The eighteenth-century British traveller James Bruce (d. 1794) explained that "the heat of the climate, or some other natural cause, did, in that particular nation, invariably, alter the formation [of female genitalia], so as to make a difference from what was ordinary in the sex in other countries".⁷⁵⁸ The renowned English lexicographer of medieval Arabic, Edward Lane (d. 1876), similarly supported the idea that the prepuce of the clitoris was removed because, "it seems, in the Arabian and Egyptian

⁷⁵⁴ Berkey 1996: 33.

⁷⁵⁵ Kutscher 2014a: 218.

⁷⁵⁶ *Biblia Iatrika*, vol. 16, chap. 106, cited in Anees 1989: 77; Berkey 1996: 22.

⁷⁵⁷ Quoted in Meinardus 1967: 389–390; Berkey 1996: 39.

⁷⁵⁸ Bruce 1790: 679; Berkey 1996: 37.

racés, and others throughout Eastern Africa, and still more so in the Hottentot race, [it] grows to an extraordinary size”.⁷⁵⁹

Bruce’s and Lane’s fantasies about Middle Eastern women’s genitalia, as Berkey pointedly remarks, did “not arise in a vacuum”.⁷⁶⁰ Until the nineteenth and even the mid-twentieth centuries, many medical doctors in Europe and North America recommended excision as a way to relieve women from their “pathological” conditions, presumed to be caused by masturbation.⁷⁶¹ “Investigative studies into the history of gynophobic Western biomedical practices reveal”, Anees warns his readers, “a horrid picture.”⁷⁶²

Despite the similarity between these Western convictions and the ones that shaped the cognitive framework of much medieval Islamic literature,⁷⁶³ Muslim jurists and writers expressed a fundamental ambiguity with regard to women’s sexual passions. This ambiguity inevitably tinted their perspectives on female circumcision. The third/ninth-century scholar and *littérateur* al-Jāḥiẓ (d. 255/869), for example, argued in a chapter on the “Effect of Circumcision on Lust” (*Athr al-khitān fī al-ladhdha*) in his famous *Kitāb al-ḥayawān* (Book of Animals), that

والبظراء تجد من اللذة ما لا تجده المختونة، فإن كانت مُستأصلاً مستوعبةً كان على قدر ذلك، وأصل ختان النساء لم يُحاول به الحسنُ دونَ التماسِ نُقصانِ الشهوة [...] كأنه أراد صلى الله عليه وسلم أن ينقص من شهوتها بقدر ما يردّها إلى الاعتدال؛ فإن شهوتها إذا قلّت ذهبَ التمتع، ونقصَ حبُّ الأزواج، وحبُّ الزوج قيّد دون الفجور.

The uncircumcised woman (*al-buḥārā*) finds sensual pleasure (*ladhdha*) that the circumcised woman (*al-makhtūna*) does not find. So if [her genitals] have been uprooted and extirpated (*mustaʿṣala wa-mustawʿaba*) her [pleasure is diminished] accordingly. And the principle of women’s circumcision is that beauty is not achieved without demanding a decrease of passion (*shahwa*). [...] Therefore, he [i.e., the Prophet] – God bless him and grant him salvation – wanted their passion to be lowered to the extent that moderation is restored (*bi-qadr al-iʿtidāl*); if it decreases, enjoyment (*al-tamattuʿ*) dies, and the love of the spouses lessens, and the love of a spouse is a shackle against profligacy.⁷⁶⁴

⁷⁵⁹ Lane 1984: 222.

⁷⁶⁰ Berkey 1996: 31.

⁷⁶¹ For a brief overview, see Anees 1989; Lightfoot-Klein/Huber 1993: 214–217.

⁷⁶² Anees 1989: 83.

⁷⁶³ Berkey 1996: 30.

⁷⁶⁴ al-Jāḥiẓ 1945: 27–28.

Admittedly, al-Jāhiz's assumptions about women's sexuality and the underlying tensions and ambiguities that shape those opinions on female circumcision remain largely implicit, in the brevity of al-Qaraḍāwī's fatwa. This ambiguity, however, partly provides al-Qaraḍāwī with the very room to manoeuvre which he uses in returning to the matter some years later: first in *Fiqh al-ṭahāra*, "The Jurisprudence of Ritual Purity", and later in a small booklet entitled *al-Ḥukm al-shar'ī fī khitān al-ināth*, "The Legal Rule on the Circumcision of Females").⁷⁶⁵ In both texts, he takes his argument in a somewhat different direction from the earlier line of argumentation.

Several differences between his fatwa and his later writings are noticeable. The first of these differences concerns a prominent change in their discursive settings. Al-Qaraḍāwī's earlier fatwa is, as we have seen, framed as a reply (*jawāb*) to an anonymous individual enquirer (*mustaftī*).⁷⁶⁶ His booklet *al-Ḥukm*, on the other hand, is set against a background that markedly departs from this dialogical setting. This new context becomes apparent in the introductory remarks that open his lecture (*muḥāḍara*):

واليوم تعقد (دار الإفتاء) المصرية بالاشتراك مع الاتحاد العالمي في ألمانيا لمكافحة تشويه الجهاز التناسلي للمرأة: (مؤتمر العلماء العالمي نحو حظر انتهاك جسد المرأة) في القاهرة، تحت رعاية فضيلة الأستاذ الدكتور علي جمعة مفتي الديار المصرية، بُغية إظهار الموقف الإسلامي الصحيح من حماية الإنسان، وتحريم العدوان عليه، في نفسه أو جسده أو عقله، أو كرامته وعرضه، أو غير ذلك من حرّماته

Today, the Egyptian *Dār al-iftā'* holds a session in cooperation with the World Union in Germany to fight the mutilation of woman's reproductive systems (*tashwīh al-jihāz al-tanāsulī li-l-mar'a*): "the International Conference of Scholars to Proscribe the Abuse of the Female Body" in Cairo, under the auspices of His Eminence Professor 'Alī Jum'a, Mufti of the Egyptian lands, with the aim of revealing the sound Islamic position in regard to protecting the human being (*ḥimāyat al-insān*), to ban aggression upon him, his psyche (*nafs*) or his body (*jism*), his mind (*'aql*) or his honour (*karāma*), his dignity (*'ird*) and other things pertaining to his physical integrity (*ḥuramāt*, pl. *ḥurma*).⁷⁶⁷

⁷⁶⁵ al-Qaraḍāwī 2008d; 2009a. Since the text remains largely the same in both publications, I will refer in the following to *al-Ḥukm*. The text was later republished and framed as a fatwa in the fourth volume of his fatwa collection *Min hady al-islām* (2012: 517–540).

⁷⁶⁶ al-Qaraḍāwī 2009a: 443.

⁷⁶⁷ al-Qaraḍāwī 2007a: 4–5.

Al-Qaraḍāwī's introduction ostensibly re-situates his reflections on females' circumcision (*khitān al-ināth*) on the stage of a global arena in which a number of national and transnational actors meet.⁷⁶⁸ In this new arena, female circumcision is reframed as lying at the intersection of modern concepts of reproductive health and human and women's rights and of other concepts anchored in the discursive tradition of Islamic normativity. This framing provides al-Qaraḍāwī the very coordinates within which he reconfigures the practice in a creative and, as we shall see, at times eclectic manner.

Much along the lines of his earlier fatwa, he opens his reflections with a reference to the disagreement (*ikhtilāf*) among Muslim scholars and medical experts alike that shape the debate on females' circumcision (*khitān al-ināth*).⁷⁶⁹ Departing from his earlier reference to the controversy, however, he now sharply criticizes the scholarly disagreement, attributing it to a widespread

التقليد للمذاهب، وتقديس ما جاء في كتب القدماء، وتهيب مخالفتهم، واعتقادهم: أن في الموضوع أحاديث صحيحة أو حسنة يجب العمل بها، ولا يجوز إغفالها.

blind submission to the [established] schools (*al-taqīd li-l-madhāhib*), the sanctification (*taqdīs*) of what has been said in the books of the elders [and] the fear of contradicting them and their doctrine (*i'tiqād*): that there are sound or good traditions (*aḥādīth ṣaḥīḥa aw ḥasana*) on the topic according to which one has to act, and which may not be ignored.⁷⁷⁰

⁷⁶⁸ The conference was initiated by the German human rights group TARGET and was praised by the German and international press as a major step in denouncing FEMALE GENITAL MUTILATION as “un-Islamic” (Kutscher 2014: 219). For further information on the conference, see Fischer 2008. Despite his participation, al-Qaraḍāwī sharply criticized the conference from the beginning: first, because of the lack of neutrality (*muḥāyada*) of its title, and second, for the fact that it was funded by foreign parties (2007a: 4).

⁷⁶⁹ al-Qaraḍāwī 2007a: 3. Al-Qaraḍāwī refers – not without perceptible irony – to the position of the physician Dr Ḥāmid al-Ghawābī, allegedly one of the most fervent advocates and defenders of the practice in the 1950s, when al-Qaraḍāwī was still a student at al-Azhar (2007a: 3). For a comprehensive overview of the Egyptian debate on FEMALE GENITAL MUTILATION, see Badran 2009: 168–191. For al-Qaraḍāwī's general stance on *ikhtilāf*, see al-Qaraḍāwī 1990a.

⁷⁷⁰ al-Qaraḍāwī 2007a: 4.

This epistemic failure of Muslim scholarship, he critically continues, is reinforced through its more fundamental “lack of knowledge in the sciences of tradition (*‘ulūm al-ḥadīth*), its reporters (*rijāl*, sg. *rajul*) and its deductions (*takhrīj*)”.⁷⁷¹

In contrast, al-Qaraḍāwī demands an immediate and independent recourse to the authoritative sources of normative reasoning in order to arrive “at sound rule (*ḥukm ṣaḥīḥ*)” and “conclusive resolution (*qarār ḥāsim*) in this affair that concerns half of all Islamic society”⁷⁷² – a move that he clothes in the scientific vocabulary of impartial evidence, objective proof and critical examination:⁷⁷³

إذا كان المطلوب منا اليوم هو حسم القضية في هذا الأمر المختلف فيه (ختان الإناث)، ببيان الحكم الشرعي القاطع أو الراجح فيه، وفق الأدلة الشرعية المعتبرة، فالواجب علينا: أن نراجع الأمر من جذوره، لننظر في الأدلة التي اعتمدتها الأطراف المختلفة، لنعرف أي أدلة صحيحة الثبوت. أم هي أدلة مشكوك في ثبوتها؟ وإذا صحت هذه الأدلة من جهة ثبوتها، فهل هي صريحة الدلالة على الحكم أو لا؟

If what is demanded from us today is the settlement of the issue in this controversial affair (*al-amr al-mukhtalaf fihi*) – that is, “female circumcision (*khitān al-īnāth*)” – by clarifying the final or preferable rule on it based on the shari‘a (*bayān al-ḥukm al-shar‘ī al-qaṭ‘ī aw al-rājiḥ fihi*) according to acknowledged and lawful proofs (*al-adilla al-shar‘iyya al-mu‘tabara*), then this is our obligation (*wājib*): that we critically examine (*rājaha*) the affair from its roots, in order to consider the proofs on which the different parties rely, so that we [can] find out: Are they proofs of sound certainty (*adilla ṣaḥīḥat al-thubūt*)? Or are they doubtful (*mashkūk*) in their certainty? And if these proofs are sound in regard to their certainty, are they clear in the meaning of the rule (*ṣarīḥ al-dalāla ‘alā al-ḥukm*) or not?⁷⁷⁴

In his initial subchapter, he goes on to discuss the first source (*aṣl*) of Muslim normative reasoning, the Qur’an.⁷⁷⁵ Here, he succinctly notes the absence of any direct exposition

⁷⁷¹ al-Qaraḍāwī 2007a: 4. *Takhrīj* signifies the practice of citing the various collections in which a report appears. For a historical overview of the emergence and development of this scholarly practice and its related literary genre, see Brown 2007: 211. On al-Qaraḍāwī’s involvement in contemporary Muslim debates on the sciences of hadith, see Brown 1996: 119–122.

⁷⁷² al-Qaraḍāwī 2007a: 5.

⁷⁷³ For a lucid discussion on the epistemic shift from a language-based conception of knowledge towards a conception modelled on the natural sciences in modern Muslim scholarship, and the effect of this on *ijtihād*, see Nakissa 2014.

⁷⁷⁴ al-Qaraḍāwī 2007a: 6.

⁷⁷⁵ al-Qaraḍāwī 2007a: 6–8.

(*ta'arruḍ mubāshir*) of the matter.⁷⁷⁶ The argument (*istidlāl*) of those scholars who declare both male and female circumcision as an obligation (*wujūb*) by referring to the command to follow {the creed of Abraham (*millat Ibrāhīm*)} (Q 16: 123) is just as quickly disqualified.⁷⁷⁷ He criticizes their reading as being an artificially forced and false (*mutakallaf*) one. For him, that command's larger and more profound meaning is not circumcision, but rather the act of believing and affirming that God is one and unique – namely, *tawhīd*:

فكل محاجته معهم كانت حول التوحيد، ولم تكن حول شيء من جزئيات الأحكام، ولهذا لم يذكر في القرآن أي شيء من هذه الفرعيات.

All his dispute with them was about monotheism (*tawhīd*), and not about a thing pertaining to the particularities of rules (*juz'īyyāt al-aḥkām*), and therefore nothing of these specific matters (*far'īyyāt*, sg. *far'ī*) in the Qur'an.⁷⁷⁸

The second authoritative source that he refers to are a number of traditions (*aḥādīth*, sg. *ḥadīth*) which form a major point of reference in the debate.⁷⁷⁹ In this text, al-Qaraḍāwī discusses three traditions.⁷⁸⁰

⁷⁷⁶ al-Qaraḍāwī 2007a: 6. In research, there exists a general consensus that “the Qur'an completely ignores female circumcision” (Kister 1994: 12); see also Aldeeb Abu-Sahlieh 1994: 582; Atighetchi 2006: 306; Boyle, Elizabeth Heger et al. 2001: 527; Kutscher 2014: 222.

⁷⁷⁷ Al-Qaraḍāwī does not explicitly mention which scholars hold this position. According to Kutscher, this interpretation is championed by Shafi'ites and most Hanbalites, who consider female circumcision to be an obligation (*wājib*) (Kutscher 2014: 226–227).

⁷⁷⁸ al-Qaraḍāwī 2007a: 7. Although he concedes that to follow “the creed of Abraham” implies the obligation to males' circumcision (*khitān al-dhukūr*), he sees “no way to infer from this verse on the affair of females”; an argument that he presents in his later chapter on reasoning by analogy (*qiyās*) more thoroughly (al-Qaraḍāwī 2007a: 7, 13–15).

⁷⁷⁹ al-Qaraḍāwī 2007a: 8–13. This does not imply, however, that there is much reference to the practice in the hadith in general. For an overview of the relevant traditions, see e.g. Kutscher 2014.

⁷⁸⁰ Besides these three traditions, there exist two further traditions which he does not mention. The first is reported by al-Bukhārī in his *al-Adab al-mufrad*, and attributes to the Caliph 'Uthmān the order to perform circumcision on female prisoners who had converted to Islam (1955: 321, n. 1245). This tradition, as Berkey remarks, has elicited hardly any comment from Islamic jurists (Berkey 1996: 25). The second tradition runs: “Five are the acts quite akin to *fiṭra*: circumcision, shaving the pubic areas, cutting the nails, plucking the hair under the armpits, and clipping (or shaving) the moustache.” This tradition is reported in all six authoritative collections and recognized as sunna (Kutscher 2014: 224).

The first tradition he invokes was allegedly reported by the Prophet's third wife, 'Ā'isha (d. 57/678), and has been included in the hadith collections of al-Bukhārī (d. 256/870), Muslim (d. 261/875), al-Tirmidhī (d. 143/760), Abū Dāwūd (d. 275/888-9), Ibn Ḥanbal (d. 241/855) and Mālik (d. 179/795).⁷⁸¹ It runs:

إذا التقى الختانان وجب الغسل

When two circumcisions meet, ritual ablution is obligatory (*idhā iltiqā' al-khitānān wajaba al-ghusl*).⁷⁸²

As Jens Kutscher has rightly pointed out, however, *iltiqā' al-khitānān* is only part of the title of the chapter, where the whole tradition is transmitted.⁷⁸³ The whole tradition reads:

إذا جلس بين شعبها الأربع. ومس الختان الختان. فقد وجب الغسل

If he sits between her four parts and circumcision touches circumcision, then ritual ablution (*ghusl*) is mandatory.⁷⁸⁴

The major frame of reference within which the hadith has been discussed is formed by the question of whether partial sexual intercourse⁷⁸⁵ makes ritual ablution (*ghusl*) obligatory.⁷⁸⁶ However, it appears in addition that the tradition was quoted as early as the thirteenth century as historical evidence for the existence of female circumcision in pre-Islamic

⁷⁸¹ Giladi 1997: 262.

⁷⁸² al-Qaraḍāwī 2007a: 8. Al-Qaraḍāwī refers among others to Muslim ibn Ḥajjāj 2006: 130, n. 385; Ibn Ḥanbal 1993: 151, n. 26025; Ibn Māja 1952: 200, n. 611; al-Shāfi'ī 1996: 114, n. 104 (al-Qaraḍāwī provides the number 768 for this tradition); al-Albānī 1988: 130, n. 385.

⁷⁸³ Kutscher 2014: 223. Al-Qaraḍāwī, on whom Kutscher draws extensively in his essay, provides the same information in his booklet *al-Ḥukm* in footnote 1, page 10.

⁷⁸⁴ Other versions of the tradition read: “when the [male's] circumcised part meets the [female's] circumcised part (*idhā massa al-khitān al-khitān*)” or “when [male's] circumcised part passes the [female's] circumcised part (*idhā jāwaza al-khitān al-khitān*), ritual ablution is obligatory (*wajaba al-ghusl*)” (Giladi 1997: 262).

⁷⁸⁵ That is, intercourse without complete penetration and ejaculation.

⁷⁸⁶ For a most comprehensive discussion about the nexus of purity and passion in early Islamic jurisprudence, see Maghen 2004.

Arabia.⁷⁸⁷ Although al-Qaraḍāwī admits that the tradition might provide some evidence for the existence of the practice “at least among some Arabs”, he points out that it does not as such suggest whether the act of circumcision is an obligation (*wujūb*) or a recommendation (*istiḥbāb*).⁷⁸⁸

The second tradition he quotes – and which he has already cited in his earlier fatwa – is that reported by Umm ‘Aṭiyya in which the Prophet advises a female circumciser (*khātina*) on the way in which women should be circumcised.⁷⁸⁹ As mentioned earlier, the tradition has been transmitted in several varying but semantically similar versions, of which al-Qaraḍāwī, without further comment on their difference, quotes two:

أشمتى ولا تنهكي.. فإنه أنضر للوجه، وأحظى عند الزوج.

[Cut] slightly and do not overdo it ... as that is more radiant to the face and more desirable for the husband.⁷⁹⁰

لا تنهكي، فإنه أحفظ للمرأة، وأحب إلى البعل.

Do not overdo it, as that is more preserving for the woman and more pleasant for the husband.⁷⁹¹

⁷⁸⁷ Ali 2015: 106; Berkey 1996: 22; Kutscher 2014: 223; Wensinck 1979: 20. This historical reading of the tradition has been criticized by a minority reading. The word *al-khitānān* in the tradition is merely the dual of the word for male circumcision – a grammatical construction which we find, for example, in *al-wālidān*: a (masculine) dual form of father (*wālid*), meaning parents. The less dominant part (the female) is thus subsumed under the characterization of the more dominant part (the male). From this, Roald concludes: “If *khitān* was a common synonym for the male sexual organ, which is not improbable, then the use of the word *al-khitānayn* might be a grammatical *taghlīb* form where the ‘stronger’, i.e., the male sexual organ, is linguistically preferred over the ‘weaker’, i.e., the female sexual organ. [...] In this sense the Prophet’s expression of ‘the two circumcised’ implies only that the male sexual organ is circumcised; it does not necessarily imply a circumcision of the female sexual organ” (2001a: 247).

⁷⁸⁸ al-Qaraḍāwī 2007a: 10.

⁷⁸⁹ In another version recorded by al-Bayhaqī, Umm ‘Aṭiyya herself is identified as the *khātina* (Berkey 1996: 36).

⁷⁹⁰ al-Qaraḍāwī 2007a: 8.

⁷⁹¹ al-Qaraḍāwī 2007a: 11 He refers to the following collections: Abū Dāwūd al-Sijistānī 2009: 541, n. 5271; al-Bayhaqī 2003: 562, n. 6/396; al-Albānī 1988: 148, n. 398.

At this point, some decisive differences from his earlier reading become apparent.

First, al-Qaraḍāwī offers a markedly more explicit interpretation of the tradition than in his fatwa from 1988. Drawing on *al-Nihāya fī gharīb al-ḥadīth* by the Arab historiographer Ibn al-Athīr al-Jazarī (d. 630/1160), he offers the following interpretation:

ومعنى ((أشيمّي)): مأخوذ من إشمām الرائحة، أي الاكتفاء بأدنى شيء. ومعنى ((لا تنهكي)): من النهك، وهو المبالغة في كل شيء. ينهاها عن التجاوز والإسراف في القطع. قال في (النهاية) في تفسير ((لا تنهكي)): أي لا تأخذي من البظر كثيرا، شبه القطع اليسير بإشمām الرائحة، والنهك بالمبالغة فيه.

And the meaning of “*ashimmī*” is: deduced from the diffusion of odour (*ishmām al-rā’iḥa*), which [means] contentment with a minimal thing (*al-iktifā’ bi-adnā shay’*). And the meaning of “*lā tanhakī*”: it belongs to *al-nahk*, and it is an exaggeration in everything (*al-mubālagha fī kull shay’*). [The Prophet] forbids her [i.e., the woman circumcising] to exceed and exaggerate in cutting (*qaṭ’*). He said in *al-Nihāya* in the interpretation (*tafsīr*) of “*lā tanhakī*”: That is to say, do not take from the clitoris (*baḥr*) much. He compared the slight cutting (*al-qaṭ’ al-yasīr*) to the diffusion of odour (*al-ishmām al-rā’iḥa*) [that is, contentment with a minimal thing], and the cutting to depletion (*nahk*) to exaggerating it.⁷⁹²

Second, he rebuffs the tradition on the ground of its weak chain of transmission, thereby contradicting the renowned hadith scholar al-Albānī (d. 1999) who rectified (*ṣaḥḥaḥa*) it as sound (*ḥasan*) since it had been transmitted in several (admittedly “weak”) ways.⁷⁹³

Third, al-Qaraḍāwī continues, the tradition represents the matter neither as an obligation (*wājib*) nor as a recommendation (*istiḥbāb*), but merely as advice (*irshād*). As advice, however, it is entirely related to the regulation of a worldly matter (*tadbīr amr dunyawī*) and thus to the realization of *maṣlaḥa*. This welfare is literally rendered as “the radiance to the face and favourable to the husband” (*naḍārat al-wajh li-l-mar’a, wa-l-ḥuḥwat ‘ind al-zawj*), which he squarely reads as meaning

أنه أحظى للمرأة عند الجماع، وأحب إلى زوجها أيضا.

that it is more favourable (*aḥḏā*) for the woman [when having] sexual intercourse (*al-jimā*), and more desirable for her husband, too.⁷⁹⁴

⁷⁹² al-Qaraḍāwī 2007a: 9; al-Jazarī 2000: 950.

⁷⁹³ al-Qaraḍāwī 2007a: 11; al-Albānī 1988: 148, n. 398.

⁷⁹⁴ al-Qaraḍāwī 2007a.

Despite arriving at a similar conclusion to his fatwa of 1988, in the end declaring the practice as permissible (*jā'iz*), we can see that al-Qaraḍāwī adds some decisive elements to his earlier interpretation of the tradition. Whereas earlier he drew on the tradition in order to argue for a slight circumcision without providing much further explanation, he now substantiates his argument by reference to the technical term *maṣlaḥa* which here he uses to refer to men's and women's sexual pleasure. However, it has to be remembered that he puts the whole tradition between tentative brackets, since its chain of transmission is weak. His earlier reference to circumcision as a legitimate means of parental control over a daughter's sexuality is now entirely absent.⁷⁹⁵

For the sake of completeness, let us have a look at the third tradition invoked by al-Qaraḍāwī, since it provides him with a starting point for his further line of argument. It reads:

الختان سنة للرجال، مكرمة للنساء.

Circumcision is a sunna for men, a noble deed (*makrūma*) for women.⁷⁹⁶

Like the preceding traditions, al-Qaraḍāwī (dis)qualifies this hadith as weak, both in this and in another version.⁷⁹⁷ “But even if the tradition held its ground (*thabata*)”, he adds in a rhetorical question, “what would it prove (*dalla ‘alayhi*)?” – just to provide the answer himself: “It would prove that circumcision is ‘a noble deed (*makrūma*) for women’”, and thus neither an obligation (*ijāb*) nor a recommendation (*istiḥbāb*).⁷⁹⁸ This implies, he continues, that it is merely approved as a custom for them (*mustaḥsan ‘urfān lahunna*). As a custom, however, it is subject to change (*taghayyur*) and has no claim to universal validity, since “what is considered a noble deed (*mukrama*) in one age or region is not considered likewise in another age or region”.⁷⁹⁹ This argument on the historical and regional contingency of the practice and its corresponding status in Islamic deontology is subsequently extended on epistemological grounds, where al-Qaraḍāwī invokes the

⁷⁹⁵ al-Qaraḍāwī 2007a: 20.

⁷⁹⁶ al-Qaraḍāwī 2007a: 9, 12. Here he follows e.g. Ibn Ḥanbal 1999: 319, n. 20719; al-Bayhaqī 2003: 563, n. 8/325; al-Albānī 1996: 407–410, n. 1935.

⁷⁹⁷ al-Qaraḍāwī 2007a: 12.

⁷⁹⁸ al-Qaraḍāwī 2007a: 13.

⁷⁹⁹ al-Qaraḍāwī 2007a: 13.

authority of modern science with its central tenets of “scientific progress (*taqaddum ‘ilmī*)” and “the information revolution (*thawrat al-ma‘lūmāt*)”.⁸⁰⁰

The third legal source – after the Qur’an and some traditions – that al-Qaraḍāwī consults in his booklet *al-Ḥukm* is consensus (*ijmā’*).⁸⁰¹ Despite the absence of any scholarly agreement (*ittifāq*) on females’ circumcision (*khifāḍ al-ināth aw-khitānihā*), al-Qaraḍāwī maintains that there exists within the controversy (*khilāf*) an implicit consensus (*ijmā’ ḍimnī*), which declares the permissibility (*jawāz*) of the practice – a category, as he notes, which “is below a recommendation (*istiḥbāb*) and below an obligation (*wujūb*)”.⁸⁰² The claim here of general permissibility, however, depends upon the fulfilment of three conditions,⁸⁰³ which are epitomized in part in the tradition in which the Prophet advises (*naṣaḥa*) Umm ‘Aṭiyya – or another female circumciser – on how to conduct circumcision.

The first condition consists in refraining from excessive cutting (*tajāwuz al-ishmām*) to the degree of depletion (*nahk*),

أي الاستئصال [...] التي تحرم المرأة من لذة مشروعة بغير مبرر. وهو ما يتمثل فيما يسمونه (الخفاز الفرعوني).

that is, excision (*istiṣāl*) [...] which without justification deprives the woman of any legitimate lust. And this is represented in what is designated “the pharaonic circumcision” (*al-khifāḍ al-fir‘awnī*).⁸⁰⁴

The second condition concerns the way in which female circumcision is executed. It may only be carried out by qualified personnel – that is, by reliable and specialized female doctors (*ṭabībāt mukhtaṣṣāt thiqāt*), not by “uneducated midwives (*al-jāhilāt min al-qābilāt*) and the like”.⁸⁰⁵

⁸⁰⁰ al-Qaraḍāwī 2007a: 13. In the following subchapter, al-Qaraḍāwī revisits the third source (*aṣl*) of Muslim normative reasoning, reasoning by analogy (*qiyās*), and forcefully rejects its application in this case, since it violates some of the method’s fundamental principles and core conditions. I will not delve further into his critique, since it has no direct implication for what interests us here: his engagement with medicine from within the discursive traditions of Islamic normativity.

⁸⁰¹ al-Qaraḍāwī 2007a: 15–17.

⁸⁰² al-Qaraḍāwī 2007a: 16. On the notion of an “implicit consensus”, see Rohe 2011: 61.

⁸⁰³ al-Qaraḍāwī 2007a: 16.

⁸⁰⁴ al-Qaraḍāwī 2007a: 16.

⁸⁰⁵ al-Qaraḍāwī 2007a: 16–17.

The third condition scrutinizes the quality of the instruments and where it occurs: the tools have to be “disinfected and safe (*mu‘aqqama wa-salīma*) and appropriate (*mulā’ima*) for carrying out the desired operation”, and the place has to be “appropriate, such as a clinic, hospital or health centre”.⁸⁰⁶ If these three conditions are met, he closes his reflections, “female circumcision is neither prohibited (*ḥarām*) nor may it be decried as a barbaric crime (*jarīma waḥshiyya*)”.⁸⁰⁷

Despite declaring the permissibility (*jawāz*) of the practice under these three conditions as being sanctified by implicit scholarly consensus (*ijmā‘ ḍimnī*), however, al-Qaraḍāwī does not leave the affair there. Rather, he invokes two further instruments of Muslim normative reasoning: the juristic maxims (*al-qawā‘id al-fiqhiyya*) and the universal aims of the shari‘a (*maqāṣid al-sharī‘a al-kulliyya*).⁸⁰⁸

The first legal maxim that he invokes is the legitimacy of prohibiting permissible actions for the sake of *maṣlaḥa* (*shar‘iyyat man‘ al-mubāḥāt li-l-maṣlaḥa*).⁸⁰⁹ By implication, it is legitimate (*jawāz*) and in fact even an obligation (*wājib*) to ban any permissible act partially or generally when it is proven to cause evil or harm (*mafsada aw ḍarar*).⁸¹⁰ Applying this maxim to female circumcision, al-Qaraḍāwī argues:

إذا كان قطع هذا الجزء من جسم المرأة، يترتب عليه أذى أو ضرر معين لها، في بدنها أو نفسها، أو يحرمها من حق فطري لها، مثل حق المتعة الجنسية مع زوجها، وحق (الارتواء الجنسي)، الذي جعله الله لبنات حواء بمقتضى الفطرة التي فطر الله الناس عليها: كان ذلك محظورا شرعا [...].

If (*idhā*) cutting off this part of a woman’s body is followed by pain or a determined harm (*ḍarrar mu‘ayyan*) to her, to her body or her mind (*fī badnihā aw nafsihā*), or if it deprives her of her natural right (*ḥaqq fiṭrī*), like the right to sexual pleasure with her husband and the right to “sexual satisfaction” (*irtiḥā‘ jinsī*), which God has rendered to the daughters of

⁸⁰⁶ al-Qaraḍāwī 2007a: 17. On the contrary, “[t]he use of primitive instruments (*adawāt badā’iyya*) in a primitive way and in unprepared places is not allowed (*lā yajūz*), as [might] occur in rural areas and the like. [The is] because of the harmful consequences (*aḍrār*, sg. *ḍarar*), which are prohibited by Islamic law (*shar‘*)” (al-Qaraḍāwī 2007a: 17).

⁸⁰⁷ al-Qaraḍāwī 2007a: 17.

⁸⁰⁸ al-Qaraḍāwī 2007a: 18. This particular turn in his line of argument is, as we have seen in the previous chapter (pp. 154–157), not incidental, but rather reflects a larger trend in Muslim normative thinking of which al-Qaraḍāwī’s writings form a constitutive part.

⁸⁰⁹ al-Qaraḍāwī 2007a: 18.

⁸¹⁰ al-Qaraḍāwī 2007a: 18–19.

Eve in accordance with the nature (*fiṭra*) that God endowed her with: [then] that is prohibited according to the shari'a.⁸¹¹

Of course, the crucial question that arises at this point is how – and by whom – it is determined “whether (*idhā*)” circumcision harms women, causes unjustified pain or deprives them of their natural right (*ḥaqq fiṭrī*) to sensual pleasure and sexual satisfaction. It is here where al-Qaraḍāwī invokes the authoritative “view of modern medicine and science (*ra'y al-ṭibb wa-l-ilm*)”, epitomized by the Egyptian physician and Islamist thinker Dr Aḥmad Shawqī al-Fanjarī, whom he quotes extensively:⁸¹²

من المعروف طبيا أن الأعصاب الجنسية في المرأة: تكون مركزة في البظر (Clitoris) كما أن الأعصاب الجنسية للرجل تكون مركزة في رأس الذكر. فالختان كما تمارسه القابلة: يعني قطع البظر ... وفي بعض الأحيان قطع جزء من الشفرة. وهذا يعني عمليا حرمان المرأة من جميع أعصاب الحس الجنسي، فهو في تأثيره على أنوثة المرأة وعلى رغبتها في الجنس واستجابتها له (orgasm) [...] فهو نوع من إهدار آدميتها والقضاء على مشاعرها وأحاسيسها ويصيبها بالبرود الجنسي، وهو أحد أسباب الطلاق وتفكك الأسر في الإسلام.

It is medically known that the woman's sexual nerves are concentrated in the clitoris (*Clitoris*) just as man's sexual nerves are concentrated in the upper end of the penis. Cutting, as the midwife practices it, means cutting off the clitoris ... and sometimes cutting a part of the labium. This actually denies the woman of all nerves of sexual sensation. In its effect on woman's femininity and on her sexual desire and her reaction to it (orgasm) [...] this is a kind of annihilation of her humanness (*ādamiyya*) and the elimination of her feelings and her sensations ... and [causes] sexual frigidity, and this is one of the reasons for divorce and the breakup of families in Islam.⁸¹³

⁸¹¹ al-Qaraḍāwī 2007a: 22.

⁸¹² He draws on al-Fanjarī 1986. Al-Fanjarī has been discussed by Western academic scholarship first and foremost for his contributions to Islamist political thinking and his early discussion of democracy and Islam (al-Fanjarī 1983; Keane 2004; Enayat 2005; Malick 2005).

⁸¹³ al-Fanjarī 1986: 128–129, cited in al-Qaraḍāwī 2007a: 24–25. Another harmful consequence of women's reduced sexual sensitivity that al-Qaraḍāwī invokes, again quoting al-Fanjarī, is social: men's drug addiction. The argument links the absence of libido and circumcised women's inability to orgasm to the use of drugs by their husbands in order to increase their sexual performance so that they can satisfy their mutilated wives. This consequence has repeatedly been invoked since the 1950s, when it was first articulated in the Cairo magazine *al-Taḥrīr* and later re-expressed by the Egyptian writer Yusuf al-Masry in his book *Le drame sexuel de la femme dans l'Orient arabe* (1962) in the catchy formula “if you want to fight drugs, ban excision” (Masry 1962: 45–46; see also Atighetchi 2006: 307).

To these violations of women's natural and human right to sexual pleasure and its related social consequences – the breakup of the family – al-Fanjarī further adds “health-related and medical complications” caused by circumcision, including post-surgical wound infection and scarring, contamination of the uterus and the ovaries, permanent infertility and other harmful effects on childbirth.⁸¹⁴

Following his extensive quotations from al-Fanjarī, however, al-Qaraḍāwī attenuates the former's sharp criticism of the practice and its medical consequences by citing those who deny that these harms result from circumcision conducted according to the shari'a (*khitān shar'i*).⁸¹⁵ In the end, al-Qaraḍāwī concludes his lecture with a remark on the ambiguity and “capacity” (*sa'a*) in this matter from an Islamic legal perspective.⁸¹⁶

Let us halt here for a moment and ask: What conclusions may we draw from al-Qaraḍāwī's position at this point?

Unlike in his fatwa of the late 1990s, in this later booklet *al-Ḥukm*, al-Qaraḍāwī does not frame female genital circumcision – or “the circumcision of girls (*khitān al-banāt*)”, as he labelled the practice then – solely within the terminology of Islamic normativity (*fiqh*). Rather, he (re)constructs the allegedly customary and potentially harmful practice at the intersection of Islamic ethics, natural law and modern science. By citing the authoritative voice of Dr al-Fanjarī, al-Qaraḍāwī interweaves the notion of women's God-endowed natural right (*ḥaqq fiṭri*) to the sensation of lust and to sexual pleasure with the anatomical language of modern medicine that precisely maps these rights onto the anatomy of the female body. While Griffel's reproaches contemporary Islamists' thought for being inevitably caught in a “vicious circle”,⁸¹⁷ it appears that these thinkers seek from within their traditional disciplines of Muslim knowledge to (re)discover dialogical pathways to other epistemic fields on whom they strategically rely in different social and political contexts. This strategic aspect comes to the fore in the final paragraphs of al-Qaraḍāwī's lecture, when in the end he invokes the question of the practical enforcement of these normative provisions on female circumcision: Shall they be enforced by the individual's or

⁸¹⁴ al-Fanjarī 1986: 128–129; al-Qaraḍāwī 2007a: 25–26.

⁸¹⁵ al-Qaraḍāwī 2007a: 26.

⁸¹⁶ al-Qaraḍāwī 2007a: 26.

⁸¹⁷ Griffel 2007.

the collective's ethical self-regulation, or by the external and legal power of the state?⁸¹⁸
Tellingly, al-Qaraḍāwī distances himself from the latter perspective. Rather, he advocates:

توعية الناس في هذا الموضوع توعية دينية، وتوعية طبية، تسيران جنباً إلى جنب، وقد يغني التوجيه والتنقيف
الشرعي والصحي عن التشريع والإلزام بالقانون. ولا أدري: هل هناك قانون يمنع الختان في البلاد العربية
الإسلامية التي لا يَحْتَنُّ فيها النساء؟ أو إن هذا متروك لوعي المجتمع وثقافته؟

To raise the consciousness (*taw'īyya*) of people on this issue, raising [their] religious and [their] medical consciousness, with both moving along side by side. Legal and health-related guidance and education (*al-tawjīh wa-l-tathqīf al-shar'ī wa-l-ṣaḥḥī*) make legislation and law enforcement (*al-tashrī' wa-l-ilzām bi-l-qānūn*) superfluous. So, I do not know: Is there a law that prohibits circumcision in those Islamic Arab countries in which women are not circumcised? Or is this left to the consciousness (*wa'y*) of society and its culture?⁸¹⁹

In June 2007, less than one year after al-Qaraḍāwī's lecture at the conference organized by TARGET, the Egyptian minister of health made female circumcision a punishable offence.⁸²⁰ The decree stirred a major debate and fierce resistance from the party of the Muslim Brotherhood in the Egyptian parliament.

⁸¹⁸ al-Qaraḍāwī 2007a: 27.

⁸¹⁹ al-Qaraḍāwī 2007a: 27.

⁸²⁰ Fischer 2008: 40.

Conclusion and Epilogue

In part 1 of the present study, I started from a basic outline of al-Qaraḍāwī's gender theory. In this theory, he inscribes the human being (*insān*) with an innate and profound truth (*ḥaqīqa*): its consuming desire for the other sex. This sexual desire, I further suggested, is represented in al-Qaraḍāwī's media appearances as an eminent object of an epistemological desire. The pious Muslim seeks to know (*ṭalab al-ʿilm*) and to understand his God created nature (*fiṭra*) in the light of Islam and its normative rules (*aḥkām*, sg. *ḥukm*). It is this normative knowledge that enables the human being, through the proper use of his or her sexuality, to cultivate a pious subjectivity, and – via the family – to (re)build the welfare of Muslim society at large.

In the second chapter of part 1, I located this epistemological desire in the disciplinary traditions of Muslim scholarship, most notably *fiqh*. I argued that knowledge (*ʿilm*) and understanding (*fahm*) are – in al-Qaraḍāwī's engagement with this tradition – ineluctably material in character. Media are represented as powerful tools for transmitting a normative knowledge. In this representation, the practices of reading, of asking, and of consuming new media effect a particular, epistemological transformation of the Muslim subject towards an understanding (*fahm*) of his outward actions (*al-aʿfāl al-zāhira*) in the light of their ethico-legal value. The success of this transformation through media, however, crucially depends on the disciplinary regulation of their production and consumption. The regulation of reading and writing, speaking, watching and listening according to a distinct set of normative rules restricts and enables the subject's epistemological transformation through them.

Besides their efficacy in cultivating a pious Muslim subject, media stand in a specific relation of reflexivity to reality (*al-wāqiʿ*). In other words, it is media that provide the legal scholar with privileged access and insight into the lived reality (*al-wāqiʿ al-maʿīsh*) of his subjects. In this conception, media's logic of “currentness” and actuality appears to be intimately tied to the ever-changing character of reality. Engaging with reality and

cultivating a realistic sensibility through engaging with media represent indispensable conditions of success for the scholar's ethico-legal project. Media's reality thus inevitably acquires a powerful normative force. This force is most notably reflected in the notion of the *fiqh* of reality (*fiqh al-wāqī*). This *fiqh* of reality, as al-Qaraḍāwī puts it, utilizes an inherent capacity and flexibility (*sa'a wa-murūna*) to adapt to this perpetually changing reality. *Fiqh*'s flexibility, however, demands at the same time an ongoing reflection and a re-engagement with Islamic normativity, both in content and methodology; an engagement that is most clearly reflected in al-Qaraḍāwī's recourse to independent legal reasoning (*ijtihād*) and his expansive rereading of the concept of *maṣlaḥa* and, more recently, of the *maqāṣid al-sharī'a*, the aims of the shari'a. This re-engagement allows al-Qaraḍāwī not only to reinscribe *fiqh* into the life-world of a transnational Muslim public, thus departing from other Islamist trajectories – notably that of Sayyid Quṭb – but to perpetuate the regulative claim of *fiqh*, and thus also that of Muslim scholarship. Al-Qaraḍāwī's re-engagement with *fiqh* hence reflects both his endeavour to renew Islamic normativity (*tajdīd al-fiqh*) and to tame the normative force of reality, thereby carefully redrawing the boundaries of the discipline.

This redrawing has most recently been reflected in certain shifts along the axis of interiority and exteriority, that is of the ethico-moral and the legal dimensions of *fiqh*. Although both of these dimensions have always been present in al-Qaraḍāwī's texts, and beyond that in the discursive traditions of Islamic normativity at large, it appears that in recent years the ethico-moral dimension has come much more strongly to the fore in al-Qaraḍāwī's texts.

In September 2014, I attended a conference with the (much debated) title “Pupils of al-Qaraḍāwī” (*Talāmīdh al-Qaraḍāwī*), chaired by Yāsir ‘Awda in Doha. As a present, all attendees received a bag full of books by al-Qaraḍāwī, among them the latest edition of his “first” book, *Al-Ḥalāl wa-l-ḥarām fī al-islām* (The Lawful and the Prohibited in Islam). Skimming the book, I realized that this new edition contains an additional chapter on “The Lawful and the Prohibited in the Acts of the Hearts” (*al-Ḥalāl wa-l-ḥarām fī ‘a’māl al-qulūb*), where al-Qaraḍāwī revisits – most revealingly – Abū Ḥāmid al-Ghazālī (d. 505/1111). In a brief moment of retrospection, al-Qaraḍāwī locates the subject of the chapter in the genealogy of his text:

كنت قصرتُ حديثي في الطبقات السابقة من كتابي [...] على الأعمال الظاهرة للإنسان : أعمال اللسان والعين والحواس والجوارح والأعضاء الظاهرة للإنسان، منيهاً إلى أن هناك محرمات أخرى , كثيراً ما تكون أهم وأشد وأعظم إثمًا من المحرمات العادية المعروفة عند الناس , وهي المحرمات التي سماها علماء التصوف والسلوك : (أعمال القلوب).

In the previous editions of my book [...], I had confined my account to the outward deeds of the human being: the deeds of the tongue, the eye, the sensations and the limbs and the outer organs of the human being, pointing out that there were other ordinances (*maḥrumāt*, sg. *maḥruma*), often of greater importance, stronger and more significant sins than the common ordinances known by the people – ordinances that the scholars of Sufism and ethics (*‘ulamā’ al-taṣawwuf wa-l-sulūk*) called “the deeds of the hearts” (*a‘māl al-qulūb*).⁸²¹

Indeed, al-Qaraḍāwī had already highlighted the primacy of “the deeds of the heart” in the afterword of previous editions through reference to a number of Qur’anic verses, most notably to the very same tradition that serves as the title for his book, *The Lawful and the Prohibited in Islam*:

الحلال بيّن، والحرام بيّن، وأن بينهما مشتبهات من اتقاهما فقد استبرأ لدينه وعرضه، ومن وقع فيها أوشك أن يواقع الحرام، وإن لكل ملك حمى وأن حمى الله في أرضه محارمه [...] ألا وإن في الجسد مضغة إذا صلحت صلح الجسد كله، وإذا فسدت فسد الجسد كله. ألا وهي القلب.

The lawful (*al-ḥalāl*) is clear, and the prohibited (*al-ḥarām*) is clear. And between the two, there are doubtful matters (*mushtabahāt*). Whoever avoids them has cleared himself [from suspicion] (*istabrah*) in regard to his religion and his honour (*li-dīnīhī wa-‘irdīhī*), while whoever falls in them is on the verge of engaging with the prohibited. Truly, every king has a protected sanctuary (*ḥimā*), and the sanctuary of God on His world is what He has prohibited. [...] In the body, there is a piece of flesh. If it is sound the whole body is sound, while if it is corrupted the whole body is corrupted. And that is the heart.⁸²²

However, the prominence of this interior dimension – “the heart (*qalb*), or the conscience (*ḍamīr*) as it is called today”⁸²³ – should not suggest a mere reduction of al-Qaraḍāwī’s project of an Islamic awakening (*ṣaḥwa islāmiyya*) to its ethical dimensions, in which the legal dimension, exteriorly enforced through the legislative or judicative power of an

⁸²¹ al-Qaraḍāwī 2014: 389–390.

⁸²² al-Qaraḍāwī 1994a: 313.

⁸²³ al-Qaraḍāwī 2008c: 50.

Islamic state, is either completely absent or utopian. Both the ethical dimension *and* the legal dimension have always been present in al-Qaraḍāwī's texts. Nevertheless, one has to admit that the notion of an Islamic state, besides its occasional – and rather polemical – invocations against secularism, has largely disappeared from al-Qaraḍāwī's writings since the 1970s.⁸²⁴ This disappearance might indeed, as Wenzel-Teuber has suggested, be linked to the failure of Third World republicanism in the Arab world and beyond.⁸²⁵ Related to this observation, one might refer to al-Qaraḍāwī's biographical experience of exile, barring him physically almost entirely from any immediate access to the institutions of the Egyptian nation-state. Indeed, this involuntary experience of exile should link him rather to another, transnational trajectory that appears to be much closer to the soft power of *ethos* than to the steel shell of modern *nomos*: the development of Qatar's foreign policy through new media technologies since the mid-1990s.

⁸²⁴ Wenzel-Teuber 2005: 139.

⁸²⁵ Wenzel-Teuber 2005: 142.

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